

Agenda

Policy Review and Development Committee

Monday 24 February 2025

Notice of Meeting

The next Policy Review and Development Committee will take place in the Committee Room, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on **Monday 24 February 2025** commencing at **6:30pm**.

Yours sincerely



JEREMY EDWARDS
CHIEF EXECUTIVE OFFICER

19 February 2025

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1 OFFICIAL OPENING**2 ACKNOWLEDGEMENT OF COUNTRY**

The Presiding Member will deliver the Acknowledgement of Country.

Noongar Language

Ngalla City of Bayswater kaatanginy baalapa Noongar Boodja baaranginy, Wadjuk moort Noongar moort, boordiar's koora koora, boordiar's ye yay ba boordiar's boordawyn wah.

English Language Interpretation

We acknowledge the Traditional Custodians of the Land, the Whadjuk people of the Noongar Nation, and pay our respects to Elders past, present and emerging.

3 ATTENDANCE

Presiding Member

Cr Elli Petersen-Pik Deputy Mayor

Members

Cr Josh Eveson
Cr Giorgia Johnson
Cr Nat Latter
Cr Assunta Meleca
Cr Steven Ostaszewskyj

Officers

Luke Botica	A/Chief Executive Officer
Kym Leahy	Director Corporate Services
Bianca Sandri	Director Community Services
Amanda Albrecht	Manager Governance and Strategy
Stuart Monks	Manager Financial Services
Karen D'Cunha	Coordinator Governance

3.1 Apologies

Mr Jeremy Edwards	Chief Executive Officer
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3.2 Approved Leave of Absence

Nil.

4 DISCLOSURE OF INTEREST SUMMARY

In accordance with section 5.65 of the *Local Government Act 1995*:

A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

5 DELEGATED AUTHORITY BY COUNCIL

There are no item appearing in this agenda for which the Policy Review and Development Committee has been granted delegated authority by Council in accordance with section 5.23(1)(b) of the *Local Government Act 1995 (WA)*; this meeting is closed to the Public.

6 TERMS OF REFERENCE

Purpose

The purpose of the Committee is to:

- Review City of Bayswater policies and facilitate the development of new policies for the consideration by Council as required.
- Make recommendations to Council on matters related to policy, policy review and policy development.

Membership

Six Elected Members (a minimum of three is required under legislation)

The quorum for this Committee is three members.

All other Councillors are appointed as Deputies.

Members must abide by the *City of Bayswater Code of Conduct for Council Members, Committee Members and Candidates*

Delegated Authority

This Committee does not have any delegated authority. The Committee will make recommendations to Council on report items. Report items will then be presented for Council's consideration at the next available Ordinary Council meeting.

Meetings

Committee meetings are to be held in accordance with the *City of Bayswater Standing Orders Local Law 2021*.

The Committee shall meet at least quarterly at the City of Bayswater Civic Centre.

Liaison Officer

Chief Executive Officer

7 CONFIRMATION OF MINUTES

The Minutes of the Policy Review and Development Committee held on 25 November 2024 which have been distributed, be confirmed as a true and correct record.

8 METHOD OF DEALING WITH AGENDA BUSINESS

With the exception of items identified to be withdrawn for discussion, the remaining reports will be adopted by exception (enbloc).

An adoption by exception resolution may not be used for a matter:

- (a) in which an interest has been disclosed;

- (b) that has been the subject of a petition or deputation;
- (c) that is a matter on which a Member wishes to make a statement; or
- (d) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

9 REPORTS**9.1 2025 Policy Review Schedule Progress Report**

Responsible Branch:	Governance and Strategy
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Information Purposes
Voting Requirement:	Simple Majority
Attachments:	Nil
Refer:	Item 10.6.1.1: OCM 31 January 2023

SUMMARY

This report monitors the progress of Policy Reviews against the Policy Review Schedule adopted by Council on 28 October 2024 (meeting resumed from 22 October 2024).

OFFICER'S RECOMMENDATION

That Council notes the progress of Policy Reviews against the 2024 Policy Review Schedule.

BACKGROUND

At its meeting of 30 September 2024, the Policy Review and Development Committee (PRDC) recommended that Council adopted a policy schedule for 2024. The schedule was subsequently adopted by Council at its meeting of 28 October 2024 (resumed from 22 October 2024).

EXTERNAL CONSULTATION

No consultation has yet occurred with the public or other agencies on this matter.

OFFICER'S COMMENTS

The progress of policy reviews against the 2025 Policy Review Schedule is shown in the table below.

PRDC Meeting Date	Policy to be Reviewed	Review Status	Comment
24 February 2025	Contract Management	Rescheduled to April PRDC	The review of this policy is rescheduled to the PRDC of 28 April 2025, as some of the clauses will be contingent on Council's review of the Procurement Policy, which is presented for review in the agenda for this meeting.
	Procurement	In Progress	A draft Procurement Policy is presented for review at this meeting.

PRDC Meeting Date	Policy to be Reviewed	Review Status	Comment
	Maylands Residential Estate Design Guidelines	Rescheduled to April PRDC	The review of this policy has been delayed to enable the Property and Economic Development team sufficient capacity to address the large number of submissions received for the Significant Tree Register for Private Land Policy and Guidelines, and Trees on Private Land and Street Verges Policy.
	Breach of Lease	In Progress	A draft Breach of Lease Policy is presented for review at this meeting.
	Council Vehicle Fleet	Rescheduled to July PRDC	The review of this Policy will be rescheduled to the PRDC of July so the City can undertake further analysis on the operating component for running electrical vehicles.
	Privacy	Rescheduled to July PRDC	The review of this Policy will be rescheduled to the PRDC of July 2025, to allow alignment with templates released for the <i>Privacy and Responsible Information Sharing Act 2024</i> .
28 April 2025	Corporate Credit Card		
	Payment to Employees in Addition to a Contract or Award Provision		
	Corner Kirkham Hill Terrace and East Street		
	Footpath		
28 July 2025	Cyber Security		
	Complaint Management		
	Heritage Places		
	Community Facilities Lease and Licence User Agreement		
	Waivers, Concessions and Definitions for Fees and Charges		
3 November 2025	Financial Hardship		
	Elected Members Entitlements		
	Elected Members Request for Information		

PRDC Meeting Date	Policy to be Reviewed	Review Status	Comment
	Community Engagement		
	Percentage for Public Art		

The *Significant Tree Register for Private Land Policy* is also presented for Council's review in the agenda for this meeting, following a period of public consultation.

Two new draft policies are also included in the agenda for this meeting. These are the *Mayoral Vehicle Policy* and the *Election Signs Policy*.

LEGISLATIVE COMPLIANCE

In accordance with section 2.7 of the *Local Government Act 1995* the role of Council is to determine a local government's policies.

RISK MANAGEMENT CONSIDERATION

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Medium	Low
Reputation and Stakeholders	Medium	Low
Service Delivery	Medium	Low
Environment	Low	Low
Governance and Compliance	Low	Medium
Strategic Risk	SR07 - Unethical or inadequate governance and/or decision-making.	

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

Theme: Leadership and Governance

Goal L4: Communicate in a clear and transparent way.

Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

CONCLUSION

This report monitors the progress of Policy Reviews against the Policy Review Schedule adopted by Council on 28 October 2024 (meeting resumed from 22 October 2024).

9.2 Policy Review: Procurement Policy

Responsible Branch:	Financial Services
Responsible Directorate:	Corporate Services
Authority/Discretion:	Legislative
Voting Requirement:	Simple Majority
Attachments:	1. Current Procurement Policy [9.2.1 - 9 pages] 2. Draft Procurement Policy [9.2.2 - 12 pages]
Refer:	Item 10.6.1.5 OCM 31.1.2023

SUMMARY

This item is due for review and with a change to key staff in the City's procurement function the document has been completely re-written and renamed *Purchasing Policy* based on benchmarking other large Local Governments and considering legislative requirements.

As the policy has been re-written, providing an additional attachment of the original policy with track changes is of no practical benefit, however the revisions are summarised in a table in the body of the report.

OFFICER'S RECOMMENDATION

That Council adopts the revised *Purchasing Policy*, as contained in Attachment 2 to this Report.

BACKGROUND

All local governments are required to have a purchasing policy that sets out the principles and business rules for the acquisition of goods, services and/or works by the City. There are specific regulatory requirements, including those covering 'pre-qualified' suppliers, that have been considered.

The City's *Purchasing Policy* has been amended over the years considering best practice, audit recommendations and changing operational requirements. Rather than continuing to amend the current policy and given the additional detail required, the document has been completely redrafted.

There are a number of key changes as summarised in the 'Officers Comments'.

EXTERNAL CONSULTATION

No consultation has yet occurred with the public or other agencies on this matter.

OFFICER'S COMMENTS

The following revisions are proposed to the *Purchasing Policy*:

Revision	Rationale
<u>Current Purchase Thresholds</u> <\$1,000 - 2 verbal quotes * \$1,000 to \$40,000 - 3 written quotes * \$40,000 to \$250,000 - Invitations for 3 quotes >\$250,000 – Public tender unless LGA exemption applies * quote exemption for WALGA and CUA suppliers	<ul style="list-style-type: none"> New thresholds are benchmarked with other Local Governments. Introduces a tiered approach, with requirements differing and becoming more comprehensive the higher the tier. Provides more clarity regarding the number of quotes when engaging WALGA or CUA preferred suppliers.

Revision	Rationale
<u>Proposed Purchase Thresholds</u> <ul style="list-style-type: none"> • < \$5,000 - 1 verbal or written quote • \$5,000 to \$50,000 – 2 written quotes • \$50,000 to \$250,000 – 3 written quotes, 3 evaluators • \$250,000 - Public tender unless LGA exemption applies but a minimum of 3 quotes through WALGA/CUA. 	<ul style="list-style-type: none"> • Adds criteria regarding the number of evaluators. • Clarifies GST position • More aligned with purchasing delegations/authorisations.
Requires the use of a Procurement Plan	Procurement Plan considers many critical aspects of procurement, including scope of works, risk management, delegations, etc. The use of this plan is mandated for procurement above \$50,000.
Incorporate a (<i>Environmental Sustainability</i>) criterion with a weighting of five percent (5%)	The previous policy supported sustainability practices but did not provide a quantitative measure. This supports the Emission Reduction and Renewable Energy Plan.
Purchase Order exemptions consider the use of petty cash and credit cards.	Petty cash and credit card transactions have their own approval processes that do not require the use of Purchase Orders
Panel of Pre-Qualified Suppliers	This section has been extrapolated to ensure all legislative requirements are captured.
Waiver Process for specific purchasing exemptions.	Includes a waiver process for purchases that from a systems or operational perspective are unique and allow certain exemptions. Legislative requirements are adhered to.
Records Management section	Extrapolates further on records management requirements.

A copy of the current policy is provided in **Attachment 1**. A copy of the revised policy is contained in **Attachment 2**.

LEGISLATIVE COMPLIANCE

Purchasing within local governments is subject to the *Local Government Act 1995* (the Act) and the requirements of the *Local Government (Functions and General) Regulations 1996*, (the Regulations), specifically *Part 4 – Provision of goods and services, Divisions 1 – Purchasing policies; Division 2 – Tenders for providing goods and services; and Division 3 – Panels of pre-qualified suppliers* of the Regulations.

The Regulations state:

“(1) *A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.*”

and

“(3) *A purchasing policy must make provision in respect of —*

(a) *the form of quotations acceptable; and*

(b) *the minimum number of oral quotations and written quotations that must be obtained; and*

(c) *the recording and retention of written information, or documents, in respect of —*

- i. all quotations received; and
- ii. all purchases made.”

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the officer's recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Low	Low
Reputation and Stakeholders	Low	Low
Service Delivery	Low	Low
Environment	Low	Low
Governance and Compliance	Low	Low
Strategic Risk	SR07 - Unethical or inadequate governance and/or decision-making.	

FINANCIAL IMPLICATIONS

This policy considers value for money and will reduce the likelihood of adverse decisions that have financial implications.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

Theme: Leadership and Governance
 Goal L4: Communicate in a clear and transparent way.
 Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

CONCLUSION

That the Committee endorses the revised policy *Purchasing Policy* for submission to Council for consideration.

Procurement Policy



Responsible Division Corporate and Strategy

Responsible Business Unit/s Governance

Responsible Officer Manager Governance

Affected Business Unit/s All Business Units

Document Ref 3658439

Purpose

This policy demonstrates the City of Bayswater's commitment to the principles of transparency, probity and good governance in procurement practices and provides guidance in ensuring full compliance with applicable legislation. The policy also provides for preference to be given wherever possible to sourcing of environmentally sustainable products.

Policy Statement

The City's Procurement Policy is based on a model policy originally developed by the WA Local Government Association and reflects the legislative amendments introduced in October 2015 and general principles for good practice. The Chief Executive Officer shall have delegated authority to approve contracts and approve claims for such contracts, and shall have further delegated authority to approve payment claims for contracts approved by Council (including variations and extensions) and contracts between the City and a prescribed organisation as set out in the Local Government (Functions and General) Regulations 1996.

The objectives of the Procurement Policy are to ensure that:

1. 'Value for money' is achieved by delivering the most advantageous outcome possible while practicing transparency, fairness and equity to all potential suppliers and efficient, effective and proper expenditure of public monies.
2. All officers and employees have regard for the City's Code of Ethics when undertaking procurement-related activities, and shall observe the highest standards of ethics, integrity and accountability.
3. The Chief Executive Officer may sub-delegate authority to approve payment claims in accordance with operational requirements.
4. All payment claims shall require an authorised officer's approval in accordance with the approved sub-delegations.
5. Competitive quotations shall be obtained for procurement below the legislative tender limit of \$250,000, except where tender exemptions apply, or as provided for in the quotation requirements

set out in Attachment 'B' to the policy. Purchase orders shall also be raised for all transactions, except as where exempted in Attachment 'B'. The quotation requirements shall be as set out in Attachment 'A' and shall otherwise be consistent with the prevailing WALGA Model Policy. The detailed practice issues may be set out in a Management Guideline.

6. The City may establish a panel of pre-qualified suppliers and contractors (the panel members) in accordance with Part 4, Division 3 of the Regulations. In establishing and using a panel, the City must:

- a) clearly articulate the goods or services to be provided through the panel;
- b) provide instructions to each of the panel members regarding how work will be awarded;
- c) regularly review the performance of panel members;
- d) register all work agreements in the City's record keeping system; and
- e) not enter into a contract for work with any particular panel member (i.e. purchase order) for more than 12 months or which contains options to extend past 12 months (Division 3, reg 24AJ(2) of the Regulations).

For clarity, the panel itself (head agreements) can exist for a term of up to three years.

A panel of pre-qualified suppliers and contractors should only be created where:

- a range of similar goods and services are required on a continuing and regular basis;
- there are numerous potential suppliers and contractors that satisfy the 'value for money' test;
- The activities under the intended Panel have been assessed as of low to medium risk;
- The panel will enhance the efficiency of the City's operations; and
- The City has the capability to effectively and equitably manage the distribution of work amongst the panel members

A panel shall not have less than two members. The invitation to join the panel will include the standard information as per normal request for tender as well as the following: (a) The expected number of panel members; (b) How panel members will be appointed; (c) How work will be distributed to those appointed to the panel; (d) A statement to the effect that there is no guarantee that the City will purchase a minimum amount of goods or services from members of the panel; and (e) how panel members may be replaced should the requirement arise.

6. Procurement activities shall progressively work towards embracing full sustainability and corporate social responsibility principles. Management Guidelines may set out the detailed requirements.
7. Written contracts shall be entered into for all significant procurement. Management Guidelines may set out the particulars of the contract form and terms appropriate to each type of procurement, however all agreements shall be written as 'at arm's length' transactions and on full commercial terms.
8. Options for extension may be included where appropriate, provided that they are included in the full market process. Contracts shall not be extended beyond such options and performance reviews of the contract should be conducted prior to applying any extension option.
1. Registered Aboriginal businesses may be engaged directly under the exemption provisions of the Local Government (Functions and General) Regulations 1996 ('the regulations') and accordingly, should be afforded fair opportunity to provide goods and services to the City. The City's Reconciliation Action Plan includes developing and formalising a process for procurement from Aboriginal owned businesses and it is recognised that the State Government Aboriginal Procurement Policy sets specific targets. While a specific target for local government is not mandated, procurement activity should wherever practicable, consider those targets.
9. . WA disability enterprises may also be engaged directly under the exemption provisions of the regulations and the outcomes of the City's Access and Inclusion Plan 2020-24 include building partnerships with, and providing employment opportunities for, people with a disability and is aligned to the Department of Communities *Disability Services State Disability Strategy 2020-2030* which includes a strategic priority to provide jobs and economic participation. Accordingly, the WA disability enterprises should also be afforded fair opportunity to provide goods and services to the City.
10. The City's standard payment terms (30 days from receipt of invoice) shall be clearly set out in all purchasing and tendering documentation and the City shall ensure that these terms are met unless other payment terms have been negotiated and agreed by both parties.
11. Wherever practicable, preference shall be given to sourcing of accredited environmentally sustainable products. Accreditation should be third party, independently assessed against recognised industry codes of practice, or are externally assessed against industry programs for environmental impact and sustainable practices. In the absence of such accreditation, recognised self-declaration and external assessment should be considered. It is also recognised that not all businesses or services can achieve accreditation, either because no reliable accreditation exists in that field of expertise or because it concerns a small business enterprise that has not yet been able to pursue accreditation, and therefore preference should in those instances, be given to suppliers that can demonstrate that environmental policies and practices have been implemented in their operations. Management Guidelines may set out the detailed requirements.
12. Under the State Government's Buy Local Policy, Government Agencies and Local Governments, including the City, are encouraged to maximize participation of local and small businesses in the supply of goods, services and works procured or contracted by government agencies in accordance with the City's local economy objectives and the City's Strategic Community Plan.

The City encourages the development of competitive local businesses within its boundary first and secondly within the broader region. It is recognised however that not every category of goods, services or works that is purchased by the City will lend itself to supply by local businesses.

To this extent, a qualitative weighting will be included in the evaluation criteria for formal quotations and public tenders where suppliers are located within the boundaries of the City or where suppliers are able to demonstrate a benefit or contribution to the local economy. This evaluation criterion will relate to local economic benefits that result from such processes.

Definitions

“Australian Disability Enterprise” means a person or organisation recognised by the Australian Government Department of Social Services as eligible for funding support to provide employment opportunities for people with disabilities within a commercial context.

“Corporate Social Responsibility (‘CSR’)” in procurement means sourcing preference to organisations that can demonstrate compliance with ethical and regulatory standards that are acceptable to the City and can demonstrate a positive impact on the communities and markets in which they operate, including supply chains that support local business development; and ethical sourcing, labour hire and manufacturing processes.

Environmental CSR aims to reduce the business footprint on the environment and covers energy use, waste minimisation, water efficiency, emissions reduction and recycling.

“Pre-qualified supplier” means an arrangement for more than one supplier under contract so that selection can be made depending on availability at the time.

“Registered Aboriginal Business” means a person or organisation registered on the Aboriginal Business Directory WA published by the Small Business Development Corporation established under the *Small Business Development Corporation Act 1983*.

“Significant procurement” means a project of around \$40,000 or more with either a detailed scope of work, technical complexity, or involving stages of work.

“Sustainability” in the context of procurement means the purchasing of goods and services that have lower environmental impact either through low carbon emissions industry-recognised energy or water efficiency ratings, sourcing of renewable materials and end-of-life recycling or safe disposal.

“Tender Exemption” means where any of the circumstances apply as set out in regulation 11 (2) of the *Local Government Act (Functions and General) Regulations 1996* including but not limited to: a unique supplier or an emergency situation as defined by the *Local Government Act 1995*; or where the purchase is from a prescribed tender-exempt organisation such as: WA Local Government Association (Preferred Supplier Contracts or Business Services); the Department of Treasury and Finance (permitted Common Use Arrangements); Regional Local Government or another Local Government; the purchase is under auction that has been authorised by Council; or the contract is for petrol, oil, or other liquid or gas used for internal combustion engines; or a registered Aboriginal Business or Australian Disability Enterprise.

“Value for Money” means consideration of quality standards, sustainability, life cycle costing and service benchmarks, and the total costs of ownership, including the related transaction costs associated with acquisition, so as to ensure the best outcome for the City.

“WALGA Model Policy” means the model procurement policy developed in response to regulatory changes introduced in 2007, as included in the WALGA Procurement Handbook (updated periodically).

Related Legislation

Local Government tendering is subject to the requirements of the *Local Government Act 1995* (“the Act”) and the *Local Government Act (Functions and General) Regulations 1996* (“the Regulations”), as amended from time to time. Local government recording keeping (including procurement-related matters) is subject to the requirements of the *State Records Act 2000*.

Related Documentation

City Policy in relation to accounts for payment

City Policy in relation to using the City’s Common Seal and Signatories for Contract Execution

WA Local Government Procurement Handbook

Emission Reduction and Renewable Energy Plan.

Relevant Delegations

Risk Evaluation	High – 2 Yearly Review Cycle
Council Adoption	28 February 2017
Review/Modified	23 July 2019
Review/Modified	27 April 2021
Review/Modified	31 January 2023
Next Review Due	January 2025

ATTACHMENT 'A'

PROCUREMENT QUOTATION AND TENDERING REQUIREMENTS

Under \$1,000	<p>At least two (2) verbal quotations should be sourced, other than for miscellaneous items under \$150, which are normally dealt with under the petty cash guidelines and therefore do not require purchase orders, and wherever practicable that should include local businesses, registered Aboriginal businesses, Australian Disability Enterprises, or companies that demonstrate that they meet the Corporate Social Responsibility principles. Appropriate file notes kept of the responses by the responsible officer. Purchase orders shall be issued as appropriate and shall form the agreement with the supplier. Direct sourcing from WALGA-Preferred Supply Contracts or State Government Common Use Agreements is permitted, provided that the supplier can demonstrate value for money and is on the relevant panel for the specific</p>
Over \$1,000 and up to \$40,000	<p>Three (3) written quotations shall be sought from suppliers for goods and services except where a Tender Exemption applies.</p> <p>Wherever practicable, that should include local businesses, registered Aboriginal businesses and Australian Disability Enterprises or companies that demonstrate that they meet the Corporate Social Responsibility principles. Direct sourcing from WALGA-Preferred Supply Contracts or State Government Common Use Agreements is permitted, provided that the supplier can demonstrate value for money and is on the relevant panel for the specific requirements. All quotation information shall be kept confidential.</p> <p>Responses should be in writing and include the price and a sufficient amount of information relating to the specification of goods and services being offered to determine that they meet the requirements. Templates should be used where practicable (refer to the WALGA Procurement Handbook) and the quotation request shall include a statement requiring respondents to declare any conflict of interest. Details of each quotation shall be recorded by the responsible officer including comments on which quotation offer presents best value. Purchase orders shall be issued as appropriate (simple procurement) with reference to the contract terms and all quotation information shall be kept confidential. Due to the operational nature of the requirements, some transactions shall be exempt from the requirement for purchase orders, as set out in Attachment 'B' to this policy.</p>

\$40,000 - \$250,000	<p>As this will generally be a more complex procurement activity, the supplier should be provided with an appropriately-detailed specification, including: Selection Criteria; Price Schedule; and Conditions associated with responding as appropriate, and a statement shall be included requiring respondents to declare any conflict of interest. Quotation invitations should be issued simultaneously to all parties with sufficient time to ensure that they have an equal opportunity to respond. Any new information shall be provided as it arises to all prospective suppliers and the quotation responses should be assessed for compliance, then against the selection criteria, and the value for money principals. All respondents should be advised, in writing, of the outcome as soon as possible after the final determination is made and approved.</p> <p>A purchase order should be issued to the supplier and be accompanied by a contract acceptable to the City and in an appropriate form setting out the contract terms and outcomes, and all quotation information shall be kept confidential. Contract options for extension should be considered when determining the tender value. Contract execution shall be as per the limits set in the Delegated Authority Register and the Execution of Documents Policy</p>
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<p>Over \$250,000</p>	<p>Publicly advertised tenders for goods and services should be the preferred method for sourcing. Use of WALGA-Preferred Supply Contracts or State Government Common Use Agreements or exempt agencies should be considered only where competitive quotations can be achieved. Regardless of which approach is used, registered Aboriginal businesses (up to a limit of \$250,000), Australian Disability Enterprises and companies that demonstrate that they meet the Corporate Social Responsibility principles shall be given every fair opportunity to submit competitive proposals.</p> <p>Before tenders are publicly invited, the responsible officers shall develop a detailed scope of work and determine, in writing, the criteria for deciding which tender should be accepted. A statement shall be included requiring tenderers to declare any conflict of interest and the evaluation panel must be established prior to the advertising of the Tender and shall include a mix of skills and experience relevant to the nature of the purchase.</p> <p>State-wide public advertisement of the tender must precede the issuing of an appropriately-detailed specification, selection criteria, Price Schedule and Conditions of Tender, and such documentation shall be made available at least 14 calendar days prior to closing to ensure that all parties have an equal opportunity to respond. Any new information shall be advised by way of a written addendum to all registered parties as soon as possible. Tender responses shall be kept confidential and assessed, including a report to the CEO or Council, as appropriate, providing an assessment of the extent to which each tender response satisfies the selection criteria set prior to advertising the tender and the overall value for money principles.</p> <p>All tender respondents shall be advised in writing as soon as possible of the tender outcome, including the consideration, after the final determination is made and approved. Such notification shall include the name of the successful Tenderer and the total value of consideration for the winning offer shall be entered into the tender register at the conclusion of the Tender process.</p> <p>Tender determination shall be as per the limits set in the Delegated Authority Register and contract execution shall be as set out in the Delegated Authority Register and the Execution of Documents Policy.</p>
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ATTACHMENT 'B'

PURCHASE ORDER EXEMPTIONS

Agency	<ul style="list-style-type: none">- ATCO- Western Power- Water Corporation- Telstra- Australia Post- Contestable gas and electricity retailers (EDL and Perth Energy)
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Procurement Policy

Responsible Division	Corporate Directorate
Responsible Business Unit	Financial Services
Responsible Officer	Manager Financial Services
Affected Business Units	All
ECM Document Set ID	4874679

Purpose

This policy demonstrates the City of Bayswater's commitment to the principles of transparency, probity and good governance in procurement practices and provides guidance in ensuring full compliance with applicable legislation.

Scope

This policy applies to the purchases of all goods and services by the City, other than those excluded due to their minor values or purchases of a statutory nature.

Definitions

For the purpose of this policy —

1. The term “goods, services and/or works” is used to better reflect the things that the City purchases rather than the term “goods or services” as used in the Regulation.
2. All values are in Australian currency (AUD) and exclusive of GST.
3. The value of a contract refers to the total value inclusive of the original contracted value and increases in value resulting from contract term extensions, periodic renewals, contract sum adjustments and the like.

Additionally, a variety of specific terms, concepts and principles are set out in this policy that may be expressed in different words in other policies, management practices and related documents. Any such differences shall in no way diminish the intent of the terms, concepts and principles within the respective documents.

Term	Definition
Act	means the Local Government Act 1995.
CUA	means the Common Use Arrangement as administered by the Department of Finance.

Term	Definition
Emergency Purchase	means a purchase of goods, services and/or works is to address an unplanned situation requiring prompt action to mitigate present and immediate risks to persons and/or property for which the City has a responsibility to action.
Evaluation	means an objective assessment of the merits of an offer for the purpose of determining its relative merits against the nominated evaluation criteria.
Evaluation Criteria	means a set of factors used to determining the relative merits of an offer, including conformance, qualitative and price aspects.
Evaluator	means a person tasked with performing and evaluation.
Local Business	means a business that has a premises within the City of Bayswater.
offer	means a defined and specific proposal (including price information) to undertake to supply goods, services and or works.
officer	means an employee of the City of Bayswater, including contracted personnel engaged by the City of Bayswater.
Panel	means a panel of pre-qualified suppliers formed by the City of Bayswater.
pre-qualified supplier	means a supplier that has been selected and is presently included in a Panel of pre-qualified suppliers.
Regulation or Regulations	means the Local Government (Functions and General) Regulations 1996 (as amended).
request	means a verbal or written statement describing the goods, services and/or works that the City is seeking to be supplied.
supplier	means a someone and/or a business that provides goods, services and/or works.
WALGA PSP	means the WA Local Government Association (WALGA) Preferred Supplier Program (PSP).

Policy Statement

This policy is benchmarked based on other WA Local Government procurement and purchasing policies and applies to all purchasing activities undertaken by the City, whether exercised through its officers, appointed representatives and/or consultants acting on behalf of the City.

1. Purchasing Objectives

All purchasing activities undertaken by the City shall fulfill the following objectives:

Legality – be inherently legal and comply with all statutory requirements (acts, regulations, laws and the like).

Safety – comply with applicable work, health and safety legislation and the City's current Work Health and Safety Management Plan and related documents.

Ethical – be fair, reasonable, equitable, transparent and free of personal bias and interests. In this regard, any conflict of interest, whether on the part of a supplier or an officer, elected member, appointed representative and/or consultant shall be disclosed and recorded so that the conflict of interest can be addressed through appropriate management measures, all in accordance with the City's Code of Conduct.

Commercially Competitive – encourage competition and efficiency in business to promote greater choice in price, quality and service; and ensure suppliers are provided with the same information, conditions and opportunity to present their respective offer. It is fundamental that all offers be treated as commercial in confidence during the purchasing process.

Objectivity – achieve the most advantageous outcomes for the City, balancing quality, function, sustainability and value for money.

Value for Money – the purchase represents proper expenditure of public monies and the optimum balance of cost and benefit, taking into consideration the total value of the purchase compared to the benefits derived from the purchase over the duration that the goods, services and/or works fulfills the City's need for such. In this regard, price, quality, timelines, safety and risk, along with social, environmental and economic benefit are factors relevant to informing value for money.

Sustainability – support the City's sustainability endeavours through the City's Emission Reduction and Renewable Energy (ERRE) Plan by including sustainability as a qualitative criterion in the evaluation of an offer.

Support Local Business – under the WA State Government's Buy Local Policy 2022, Government Agencies and Local Governments, including the City, are encouraged to maximise participation of local and small businesses in the supply of goods, services and/or works procured or contracted by government agencies in accordance with the City's local economy objectives and Strategic Community Plan.

Accordingly, the City encourages the development of competitive local businesses within the City of Bayswater boundary. However, it is recognised that not every category of goods, services and/or works that is purchased by the City will lend itself to supply by local businesses.

Probity – adopt processes and procedures that support the above objectives, embodies good governance, achieves consistency and mitigates risks of non-conformance to the requirements of this policy and the Regulations.

2. Purchasing Requirements

Under this policy, all purchasing activities conducted by the City shall conform to the following requirements, subject only to the waiver provisions set out within this policy.

Anti-Avoidance

Purchasing shall not be intentionally split into multiple purchases such as to avoid the requirements of a higher purchasing threshold applicable to the true total value of the purchase and/or the City's Delegated Authority/Purchasing Authorisations Register and/or any other requirement of this policy and the Regulations.

Funding

The funding source/s for a purchase shall be pre-determined and approved by the officer/s who has/have management responsibility of the funding source/s.

Procurement Plan

A Procurement Plan shall be prepared for all requests for quotation/tender where the total value of the purchase is anticipated to be \$50,000 and above, as well as all requests for expression of interest.

Sustainability

All requests (quotations, tenders and expressions of interest) that incorporate written qualitative criteria as a mechanism for evaluation, shall incorporate an *Environmental Sustainability* criterion with a weighting of five percent (5%) of the total weighted criteria used to evaluate an offer/expression of interest. Future versions of this policy may build on this and further consider and support sustainable practices.

Support Local Business

As much as is practicable, Tier 1 requests for quotation shall be from suppliers within the City of Bayswater boundary first and secondly within the North-Eastern Metropolitan Region.

All requests (quotations, tenders and expressions of interest) should consider local business when evaluating submissions.

Purchasing Value Thresholds

The table below sets out purchase value thresholds adopted by the City under this policy.

The values are the total monetary amount the City would pay a supplier for a purchase/value of a contract. The following table is supported by the City's purchasing authorisations with values quoted excluding GST.

Purchase Thresholds, Number of Responses, Number of Evaluators and Delegated Authority				
Request Type	Request for Quotation			Request for Tender
	Tier 1	Tier 2	Tier 3	Tier 4
Value of Purchase/ Contract	Up to \$5,000	Over 5,000 up to \$50,000	Over \$50,000 but less than \$250,000	\$250,000 and above
Procurement Plan	Not Required		Required	
No of Prices/Offer to be Sought	1x Verbal or Written	2x Written	3x Written	As received through public advertisement; or where sourced using WALGA PSP, CUA panel or other: 3x Written
No of Evaluators	Single Evaluator		Three Evaluators	
Basis for Evaluation of Price/Offer	<ul style="list-style-type: none"> Fulfill the City's Requirement Value for Money 		<ul style="list-style-type: none"> Fulfill the City's Requirement Conformance Criteria Qualitative Criteria Price Criteria 	

The above Purchase Value Thresholds excludes direct purchases of up to \$150 utilising petty cash and City approved purchase cards.

The following aspects of requests are set out in the City's Purchasing Management Practice:

1. the typical format and information to be included in each request type;
2. the purchasing method and related terms and conditions of the purchase/contract; and
3. the types of information and documents to be included in recordkeeping.

Evaluation of Price/Offer

A price/offer provided by a supplier shall be evaluated based on the extent to which it fulfills the City's requirement (for the supply of the goods, services and/or works being sought), value for money and/or specific pre-determined criteria stipulated for a particular request.

An Evaluator shall be:

1. an officer of the City of Bayswater (including contract staff appointed to fulfill the responsibility of an officer) and/or
2. a person from an organisation that is either partnering and/or supplying funds for an endeavour that is the subject of the purchase.

Consultants and/or other external agents are limited to providing advisory services to inform the evaluators on matters relating to the merits and other relevant factors relating to an offer

Purchase Orders

A purchase order shall be issued to a supplier prior to any goods, services and/or works being provided to the City by the supplier.

Purchase Order Exemptions

The issuance of a purchase order is not required in the following instances:

1. where the total value of the purchase is not more than \$150 and the transaction is paid by cash; or
2. where the transaction is paid by a credit card; or
3. where a purchase is from Australia Post; or
4. where a purchase is from a utility supplier, or
5. where other internal forms are applicable, such as Elected Member and Staff reimbursements.

Payment

All claims for payment and/or invoices shall require approval by an authorised officer in accordance with the City's Purchasing Authorisation Management Practice.

The City's standard payment terms is thirty (30) days from date of receipt of invoice and shall be set out in all requests for quotation and tender as well as purchasing documentation. Adjustment to thirty (30) day period shall only be by mutual agreement between the City and the supplier.

Panel of Pre-Qualified Suppliers

A panel of pre-qualified suppliers ("a Panel") may be established only where the City has determined there is or will be a continuing need to regularly purchase particular goods, services and/or works that can be supplied by multiple suppliers.

Establishment of a Panel

The establishment of a Panel shall conform to the following requirements:

1. a Procurement Plan setting out the justification for a Panel be prepared and duly approved;
2. the categorisation and particulars of the goods, services and/or works to be supplied be pre-determined in writing;
3. whether or not the City will purchase the goods, services and/or works exclusively from the Panel be pre-determined in writing;
4. the intended number of pre-qualified suppliers to be on a Panel be pre-determined in writing and always be not less than two (2) pre-qualified suppliers;
5. the duration a Panel is in effect be no greater than thirty-six (36) months and, should there be an intention to re-establish the Panel, it follows the same requirements for establishing the original Panel;

6. the criteria upon which applications from suppliers to join a Panel are evaluated be pre-determined in written prior to publicly inviting applications;
7. the invitation to apply to join a Panel; the receipt and evaluation of applications; the acceptance of applications; and the notification of applications conforms to the requirements contained in the Regulations, specifically Division 3 regulations 24AD, AE, AF and AH;
8. the invitation and corresponding outcomes are included in the City's tender register;
9. each business unit that utilises a Panel or set of Panels to supply goods, services and/or works are to maintain a panel register containing, as a minimum, the following information:
 - a) the categorisation and particulars of the goods, services and/or works to be supplied through the Panel;
 - b) each period the Panel is in effect;
 - c) the members of the Panel for the current period;
 - d) a summary of the various invitations for quotation issues and the pre-qualified suppliers that were invited;
 - e) details of the quotations received and which quotation(s) were accepted;
 - f) the cumulative percentage of instances each pre-qualified supplier has been invited to submit a quotation;
 - g) the cumulative percent of the volume of goods, services and/or works awarded to each pre-qualified supplier. For the purposes of this requirement, volume mean both the number of instances quotations are sought and the total value of the goods, services and/or works purchased through the Panel for the duration the Panel is in effect.

Management of a Panel

The management of a Panel shall conform to the following minimum requirements:

1. Quotations for the provision of goods, services and/or works shall be sought from the pre-qualified suppliers on a Panel in accordance with the minimum number of quotations required for each request type as set out in Purchase Value Thresholds within this policy;
2. Each pre-qualified supplier shall be invited to submit a quotation for a minimum of fifty percent (50%) of the volume of good, services and/or works being purchased through the Panel;
3. No single contract for the supply of goods, services and or works with a pre-qualified supplier shall be for a period of more than twelve (12) months, nor contain an option to extend the contract period past twelve (12) months;
4. In addition to invitations to submit quotations, all pre-qualified suppliers within a Panel shall, as a minimum, be notified by the City on a bi-annual basis as to the volume of goods, services and/or works award for the preceding period and upcoming opportunities for the current period;
5. The performance of pre-qualified suppliers, for each contract that is awarded to them, shall be evaluated based on pre-determined criteria relevant to the context of the goods, services and/or works being supplied through the Panel;
6. Should a pre-qualified supplier exit a Panel, the City may:

- a) Offer the next ranked supplier to join the Panel, provided such offer and acceptance to join the Panel conform to the requirements of this Policy and the Regulations; or
 - b) Publicly readvertise applications to join the Panel utilising the same information that was used to establish the current Panel; and
7. All written information pertaining to invitations to submit quotations, quotations received and contracts awarded/purchases made shall be retained and meet the requirements set out in Records Management within this policy.

Waiver to Specific Purchasing Requirements

The table below sets out waivers to specific Purchasing Requirements that apply only to the extent described for each item of goods, services and/or works listed.

In all instances, a waiver requires the authorisation at Director level or above.

Item	Waiver
Banking Services	The requirement to obtain a minimum number of quotations does not apply for the supply of banking services where: <ul style="list-style-type: none"> a. the value of a contract is less than \$250,000; and b. a biennial review of fees is conducted to ensure the current supplier's rates remain advantageous to the City.
Emergency Purchase	The requirement to obtain quotations does not apply where the purchase of goods, services and/or works is to address an unplanned situation requiring prompt action to mitigate present and immediate risks to persons and/or property for which the City has a responsibility to action. The emergency purchase shall be from a supplier that is capable of fulfilling the require goods, services and/or works within the required timeframe and with due consideration for seeking value form money.
Legal Services	The requirement to obtain a minimum number of offers does not apply to obtaining legal services where not otherwise available through a panel of pre-qualified suppliers.
Temporary Staff Resourcing Services	The requirement to obtain a minimum number of offers does not apply to the supply of temporary staff resourcing services.
Advertising Services	The requirement to obtain a minimum number of offers does not apply to the supply of advertising services for provision of notifications in statewide and district newspapers.

Item	Waiver
Local Government Insurance Scheme Services	<p>The suite of Local Government Insurance Scheme (LGIS) insurance services is established in accordance with s.9.58(6)(b) of the <i>Local Government Act 1995</i> and are provided as part of a mutual, whereby WALGA Member Local Governments are the owners of LGIS.</p> <p>As such, the supply of LGIS insurance services is available as a member-based service and is not defined as a purchasing activity subject to this policy.</p> <p>Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this policy is required.</p>
Software and Specifically Associated Hardware	<p>The requirement to obtain a minimum number of offers does not apply for the supply, maintenance and/or support of software and specifically associated hardware where:</p> <ul style="list-style-type: none"> a. the value of a contract is less than \$250,000; and b. relates to software and specifically associated hardware currently licensed for use by the City.
Subscriptions and/or Memberships to Professional Bodies	<p>The requirement to obtain a minimum number of offers does not apply to subscriptions and memberships to professional bodies.</p>
Advanced Payments	<p>The requirement to obtain a minimum number of offers does not apply to the purchase of accommodation, travel, seminars, training and/or conferences.</p>
Other	<p>The requirement to obtain a minimum number of offers does not apply where it can be demonstrated that the purchase of the goods, services and/or works:</p> <ul style="list-style-type: none"> a. is from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or b. is associated with a state of emergency or a COVID-19 declaration or other pandemic declared by the State; or c. is supplied by a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362; or d. is supplied by an Australian Disability Enterprise; or

Item	Waiver
	<ul style="list-style-type: none"> e. is of a unique or specialised nature that there is good reason to believe it is unlikely there is more than one potential supplier; or f. it can be demonstrated that the minimum number of offers were sought, however a lesser number of offers were received.

Records Management

Records of purchasing conducted by the City shall be retained in accordance with the City's *Recordkeeping for Employees Policy Statement* and *Recordkeeping Plan 2022*, including the following:

1. all requests (quotations, tenders, expressions of interest and applications to join a Panel) issued to suppliers;
2. all offers received from suppliers in relation to requests;
3. all offers that are accepted and purchases made; and
4. any other item of information identified within this policy and the Regulations that is to be retained.

Where verbal quotations are sought, notes are to be made of the request, the offers received and their evaluation/selection; and be retained as per above.

A Tender Register, conforming to the requirements of the Regulations shall be maintained.

Related Legislation

Purchasing within local governments is subject to the *Local Government Act 1995* (the "Act") and the requirements of the *Local Government (Functions and General) Regulations 1996*, (the "Regulations"), specifically *Part 4 – Provision of goods and services, Divisions 1 – Purchasing policies; Division 2 – Tenders for providing goods and services; and Division 3 – Panels of pre-qualified suppliers* of the Regulations.

The Regulations state "(1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less." and "(2) A purchasing policy must make provision in respect of—

- a. the form of quotations acceptable; and
- b. the minimum number of oral quotations and written quotations that must be obtained; and
- c. the recording and retention of written information, or documents, in respect of—

- i. *all quotations received; and*
- ii. *all purchases made.”*

In the above, “*consideration under the contract*” effectively relates to the total monetary value the City would pay a person (a “supplier”) for the total duration of a contract.

This Policy document sets out the City’s requirements for the above and where the contract value is, or expected to be, \$250,000 and above, and all subject to the requirements of the Regulations.

The recording and retention of written information, documents and the like are subject to the requirements of the *State Records Act 2000*.

Related Documentation

The following documents contain information relevant to this policy and purchasing activities undertaken by the City:

- Local Government Act 1995
- Local Government (Functions and General) Regulation 1996
- State Records Act 2000
- City of Bayswater Code of Conduct
- City of Bayswater Purchasing Authorisations Management Practice
- City of Bayswater Purchasing Management Practice – Purchasing
- City of Bayswater Recordkeeping for Employees Policy Statement
- City of Bayswater Recordkeeping Plan 2022
- City of Bayswater Procurement Plan
- City of Bayswater Work Health and Safety Management Plan
- City of Bayswater Emission Reduction and Renewable Energy (ERRE) Plan
- City of Bayswater Contracts Management Policy
- City of Bayswater Execution of Documents and Use of the Common Seal

Document details

Relevant delegations [list]

Risk evaluation	High – 2 Yearly Review Cycle
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Strategic link	Leadership and Governance		
Council adoption	28 February 2017	Resolution	[item no.]
Next review due	January 2027		
Reviewed/modified	January 2025	Resolution	[item no.]
Revision details	[description]		

draft

9.3 Policy Review: Breach of Lease

Responsible Branch:	Transport and Buildings
Responsible Directorate:	Infrastructure and Assets
Authority/Discretion:	Review
Voting Requirement:	Simple Majority
Attachments:	<ol style="list-style-type: none"> 1. Current Policy [9.3.1 - 4 pages] 2. Current Policy showing tracked changes [9.3.2 - 4 pages] 3. Draft Revised Policy [9.3.3 - 4 pages]
Refer:	Item 10.6.1.3: OCM 22.03.2022

SUMMARY

To consider updated amendments to the City of Bayswater *Breach of Lease Policy*.

OFFICER'S RECOMMENDATION

That Council adopts the revised *Breach of Lease Policy* as contained in Attachment 3 to this report.

BACKGROUND

The *Breach of Lease Policy* provides a structured process for identifying, communicating, rectifying and recording a breach in relation to all community leases and license/user agreements.

Each lease/license and/or user agreements outline essential terms and obligations of the Lessee. This policy provides a consistent approach in dealing with breaches.

EXTERNAL CONSULTATION

No consultation has occurred with the public or other agencies on this matter.

OFFICER'S COMMENTS

The following revisions are proposed to the '*Breach of Lease*' policy:

Revision	Rationale
Responsible Division	Updated Directorate title as per operational realignment
Responsible Business Unit	Updated Business Unit title as per operational realignment
Affected Business Units	Updated Business Unit title as per operational realignment
Policy Statement	
Updated Position Titles and general formatting	Updated staff Position Titles as per operational realignment
Form of Delivery	
Rewording of forms of delivery including addition of email.	<p>Rewording creates consistency with relevant clauses in Lease Agreements.</p> <p>The addition of 'email' as a form of delivery offers a modern, reliable, and efficient method for delivery, supporting the needs of both parties while also being cost-effective and environmentally friendly.</p>
Related Documents	
Addition of <i>Community Facility Lease and Licence/User</i>	The Breach of Lease policy is relevant to Community Leases and License/User Agreements. The <i>Community</i>

<i>Agreement Policy</i>	<i>Facility Lease and Licence/User Agreement Policy</i> outlines some of the obligations to which non-compliance would result in a breach.
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The current policy is provided in **Attachment 1**. A copy of the revised policy, with amendments shown in 'tracked changes' is provided in **Attachment 2**. The final version of the proposed updated policy is provided in **Attachment 3**.

Majority of the proposed changes are updates of Position Titles as a result of the City's operational realignment with the procedural addition of 'email' as a form of notice delivery.

LEGISLATIVE COMPLIANCE

Nil.

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the officer's recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Medium	Medium
Reputation and Stakeholders	Medium	Medium
Service Delivery	Medium	Medium
Environment	Low	Low
Governance and Compliance	Low	Low
Strategic Risk	SR09 - Inability to develop and maintain a competent, capable and culturally aligned workforce.	

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

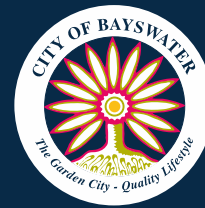
The *Breach of Lease* Policy related to Community Lease and Licence/User Agreements for facilities leased to benefit the community. The City intends to maximise the use of the facilities to the full potential.

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

- Theme: Community
- Goal C3: Maximise the use of the City's facilities and parks by all sections of the community.
- Theme: Leadership and Governance
- Goal L3: Provide good customer service. Respond to the needs of our community in a respectful and timely way.
- Goal L4: Communicate in a clear and transparent way. Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

CONCLUSION

That the Committee endorses the revised *Breach of Lease Policy* for submission to Council for consideration.



Breach of Lease Policy

Responsible Division	Works and Infrastructure
Responsible Business Unit	Building Works
Responsible Officer	Community Lease Officer
Affected Business Units	Building Works
ECM Document Set ID	4221165

Purpose

To provide a structured and consistent approach when dealing with breaches of Council's Community Lease and License/User Agreement terms.

Scope

This policy applies to all Community Lease and License/User Agreements in place for the use of City properties. The City's objective is to provide a consistent and equitable approach when dealing with a breach of agreement terms.

Definitions

For the purpose of this policy —

Agreement: a legally binding arrangement between parties, i.e. a Lease, License or User Agreement.

Authorised Contact/s: individuals of a group, organisation or club who have been nominated as the primary contacts for all lease, licence or user agreement correspondence.

Breach: a violation of a law, obligation or responsibility under an agreement.

City: City of Bayswater.

Council: means the Council of the City of Bayswater.

Lease: a contract by which one party conveys land, property or service to another for a specified time usually in return of periodic payment.

Licence: a contract for the non-exclusive use of a facility.

Licensee: a person, group, club or organisation that holds a licence for the use of a property.

Lessee: a person, group, club or organisation that holds the lease for the exclusive use of a property.

Lessor: the owner of an asset that is leased to another party.

Sub-tenant: someone who occupies all or part of a premises under a lease agreement with the original/primary tenant of the premises.

User Agreement: contractual arrangement outlining the terms and conditions associated with usage, as negotiated.

Policy Statement

1. Where a Lessee/Licensee:
 - a. does anything that constitutes a breach of any of their obligations under the tenancy agreement; or
 - b. fails to do a thing where not doing that thing constitutes a breach of their obligations under the tenancy agreement;this will be reported to the Manager of Building Works in the first instance.
2. In the event that a breach of agreement is clearly evident, the City will endeavour to provide the Lessee/Licensee in writing with a 'Breach Notice' within 48 hours of the breach occurring or being identified by the City.
3. A Breach Notice **must be** in writing and signed by the Manager Building Works or Director Works and Infrastructure. The notice must clearly identify:
 - a. The premises;
 - b. Date the breach occurred or date the breach was identified by the City;
 - c. Which of the Lessee/Licensees obligations under the agreement have been breached; and
 - d. A time frame as specified in the agreement, or when none is specified, no less than 28 full days from the date of the notice being considered as received/delivered, for the Lessee/Licensee to rectify the breach or pay compensation to the City.
 - e. The Lease/License holder has a responsibility to ensure upon receiving a Breach Notice, that this is also communicated to all relevant user groups, clubs and sub-tenants of the premises.

Form of Delivery

4. A Breach Notice must be delivered by registered post to the recorded postal address of the Lessee/Licensee, or delivered by hand to one of the listed 'Authorised Contacts' as nominated by the Lessee/Licensee.
5. A Breach Notice is considered to have been received:
 - Immediately when delivered by hand to an Authorised Contact; or
 - Five business days following the date of posting.

6. It is assumed that the Lease/License holder, upon receiving a Breach Notice, has also communicated to all relevant user groups, clubs and sub-tenants of the premises as instructed in the notice.

Rectifying and/or Addressing a Breach

7. It is considered that the Lessee/Licensee has adequately addressed a Breach Notice when the required remedial actions have been undertaken to the satisfaction of the City and within the timeframe specified. These may include any of the following actions:
 - Contacted the City, in writing, acknowledging the breach and offering a suitable solution to resolve the breach and/or a negotiated outcome. With the City then providing confirmation in writing, agreeing to the alternative solution and/or negotiated terms.
 - The City has been compensated for the loss or damage suffered as a result of the breach.
 - Any outstanding Rent, Outgoings, or Other Payments have been paid in full.
 - The Lessee/Licensee has complied with any notice provided, to remedy any default/breach to an acceptable standard, as determined by the City.

No Action Taken to Address a Breach of Agreement Terms

8. The Lessee/Licensee is responsible for ensuring they adequately address a Breach Notice within the timeframe specified and provide the City with acknowledgement, in writing, upon receiving the notice.
9. Where the Lessee/Licensee is in breach of their agreement terms for failure to pay any amounts payable to the City, or has failed to adequately rectify the breach within a reasonable time, the Lessee/Licensee will be advised in writing, that the matter will be referred to the City's Executive Leadership Team (ELT), where the following options will be considered, dependant on severity of situation:
 - Collection action for any outstanding amounts payable by the Lessee/Licensee.
 - A notice to be sent by the City's Solicitors to the Lessee/Licensee, in an attempt to resolve the situation.
 - A mediation meeting be arranged with the Lessee/Licensee and relevant City Officers to further discuss the breach of terms and negotiate a resolve.
 - The City may remedy the breach at the Lessee's/Licensee's cost.
 - Dependant on the situation, a report be presented to Council to consider options for further action, in-line with the provisions of the agreement. The Lessee/Licensee will be notified in writing, that a report is being presented to the Council once the meeting agenda has been finalised.

Recording Breaches of Tenancy Agreements

10. Breach notices will be recorded in the Lessee's/Licensee's files for 5 years and will be used to inform City officers when;
 - Reviewing the annual performance of Councils Community Lease, License and User Agreements;
 - Renewing Lease, Licence or User Agreements;
 - When deciding best course of action to take should the Lessee/Licensee fail to rectify or address a breach of a similar nature.
11. Breach notices will not be considered by City officers in decision making after 5 years from the date of issue.

Related Legislation

Residential Tenancies Act 1987

Related Documentation

City of Bayswater Community and Commercial Lease KPI's and Assessment Criteria

City of Bayswater Lease Agreements

Document details

Risk evaluation	Moderate		
Strategic link	Work together to deliver the best outcomes for the community by managing our resources in a financially responsible way.		
Council adoption	22 March 2022	Resolution	10.6.1.3
Next review due	22 March 2024		



Breach of Lease Policy

Responsible Division	<u>Infrastructure and Assets</u> Works and Infrastructure
Responsible Business Unit	Building <u>Operations</u> Works
Responsible Officer	Community Lease Officer
Affected Business Units	Building <u>Operations</u> Works
ECM Document Set ID	4221165

Purpose

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Licence: a contract for the non-exclusive use of a facility.

Licensee: a person, group, club or organisation that holds a licence for the use of a property.

Lessee: a person, group, club or organisation that holds the lease for the exclusive use of a property.

Lessor: the owner of an asset that is leased to another party

Sub-tenant: someone who occupies all or part of a premises under a lease agreement with the original/primary tenant of the premises.

User Agreement: contractual arrangement outlining the terms and conditions associated with usage, as negotiated.

Policy Statement

a. 4. —Where a Lessee/Licensee:

- a. does anything that constitutes a breach of any of their obligations under the tenancy agreement; or
- b. fails to do a thing where not doing that thing constitutes a breach of their obligations under the tenancy agreement;

this will be reported to the Building Operations Manager ~~Manager of Building Works~~ in the first instance.

b. 2. —In the event that a breach of agreement is clearly evident, the City will endeavour to provide the Lessee/Licensee in writing with a 'Breach Notice' within 48 hours of the breach occurring or being identified by the City.

c. 3. —A Breach Notice **must be** in writing and signed by the ~~Manager Building Works~~ Building Operations Manager, Manager Transport & Building or ~~the~~ Director Works and Infrastructure ~~Infrastructure and Assets~~. The notice must clearly identify:

- i. a. —The premises;
- ii. b. —Date the breach occurred or date the breach was identified by the City;
- iii. c. —Which of the Lessee/Licensees obligations under the agreement have been breached; and
- iv. d. —A time frame as specified in the agreement, or when none is specified, no less than 28 full days from the date of the notice being considered as received/delivered, for the Lessee/Licensee to rectify the breach or pay compensation to the City.
- v. e. —The Lease/License holder has a responsibility to ensure upon receiving a Breach Notice, that this is also communicated to all relevant user groups, clubs and sub-tenants of the premises.

1. Form of Delivery

a. 4. —A Breach Notice must be ~~delivered by registered post to the recorded postal address of the Lessee/Licensee, or delivered by hand to one of the listed 'Authorised Contacts' as nominated by the Lessee/Licensee~~ in writing and may be given or made:

- i. By delivery personally to one of the listed 'Authorised Contacts' as nominated by the Party.
- ii. By registered post to the recorded postal address of the Party appearing on the Lease/Licence/User Agreement, or any other address nominated by the Party; or
- iii. By email to the email address appearing on the Lease/Licence/User Agreement, or any other address nominated by the Party.

b. 5. —A Breach Notice is ~~considered to have been received~~ deemed to be given or made:

- ♦i. ~~Immediately when delivered by hand to an Authorised Contact~~ If by personal delivery, when delivered; or
- ii. ~~Five business days following the date of posting~~ If by post, on the fifth business day following the date of posting the notice; or
- ♦iii. ~~If by email, when dispatched by email unless the time of dispatch is not on a business day or after 5pm on a business day, in which case it will be deemed to be given or made on the next following business day.~~

- c. 6. — It is assumed that the Lease/License holder, upon receiving a Breach Notice, has also communicated to all relevant user groups, clubs and sub-tenants of the premises as instructed in the notice.

2. Rectifying and/or Addressing a Breach

- a. 7. — It is considered that the Lessee/Licensee has adequately addressed a Breach Notice when the required remedial actions have been undertaken to the satisfaction of the City and within the timeframe specified. These may include any of the following actions:
- i. — ♦ — Contacted the City, in writing, acknowledging the breach and offering a suitable solution to resolve the breach and/or a negotiated outcome. With the City then providing confirmation in writing, agreeing to the alternative solution and/or negotiated terms.
 - ii. — ♦ — The City has been compensated for the loss or damage suffered as a result of the breach.
 - iii. — ♦ — Any outstanding Rent, Outgoings, or Other Payments have been paid in full.
 - iv. — ♦ — The Lessee/Licensee has complied with any notice provided, to remedy any default/breach to an acceptable standard, as determined by the City.

3. No Action Taken to Address a Breach of Agreement Terms

- a. 8. — The Lessee/Licensee is responsible for ensuring they adequately address a Breach Notice within the timeframe specified and provide the City with acknowledgement, in writing, upon receiving the notice.
- b. 9. — Where the Lessee/Licensee is in breach of their agreement terms for failure to pay any amounts payable to the City, or has failed to adequately rectify the breach within a reasonable time, the Lessee/Licensee will be advised in writing, that the matter will be referred to the City's Executive Leadership Team (ELT), where the following options will be considered, dependant on severity of situation:
- i. — ♦ — Collection action for any outstanding amounts payable by the Lessee/Licensee.
 - ii. — ♦ — A notice to be sent by the City's Solicitors to the Lessee/Licensee, in an attempt to resolve the situation.
 - iii. — ♦ — A mediation meeting be arranged with the Lessee/Licensee and relevant City Officers to further discuss the breach of terms and negotiate a resolve.
 - iv. — ♦ — The City may remedy the breach at the Lessee's/Licensee's cost.
 - v. — ♦ — Dependant on the situation, a report be presented to Council to consider options for further action, in-line with the provisions of the agreement. The Lessee/Licensee will be notified in writing, that a report is being presented to the Council once the meeting agenda has been finalised.

4. Recording Breaches of Tenancy Agreements

a.10. Breach notices will be recorded in the Lessee's/Licensee's files for 5 years and will be used to inform City officers when;

- i. • Reviewing the annual performance of Councils Community Lease, License and User Agreements;
- ii. • Renewing Lease, Licence or User Agreements;
- iii. • When deciding best course of action to take should the Lessee/Licensee fail to rectify or address a breach of a similar nature.

b.11. Breach notices will not be considered by City officers in decision making after 5 years from the date of issue.

Related Legislation

Residential Tenancies Act 1987

Related Documentation

City of Bayswater Community and Commercial Lease KPI's and Assessment Criteria

City of Bayswater Lease Agreements

[Community Facility Lease and License/User Agreement Policy](#)

Document details

Risk evaluation	Moderate		
Strategic link	Work together to deliver the best outcomes for the community by managing our resources in a financially responsible way.		
Council adoption	22 March 2022	Resolution	10.6.1.3
Next review due	22 March 2024		



Breach of Lease Policy

Responsible Division	Infrastructure and Assets
Responsible Business Unit	Building Operations
Responsible Officer	Community Lease Officer
Affected Business Units	Building Operations
ECM Document Set ID	4221165

Purpose

To provide a structured and consistent approach when dealing with breaches of Council's Community Lease and License/User Agreement terms.

Scope

This policy applies to all Community Lease and License/User Agreements in place for the use of City properties. The City's objective is to provide a consistent and equitable approach when dealing with a breach of agreement terms.

Definitions

For the purpose of this policy:

Agreement: a legally binding arrangement between parties, i.e. a Lease, License or User Agreement.

Authorised Contact/s: individuals of a group, organisation or club who have been nominated as the primary contacts for all lease, licence or user agreement correspondence.

Breach: a violation of a law, obligation or responsibility under an agreement.

City: City of Bayswater.

Council: means the Council of the City of Bayswater.

Lease: a contract by which one party conveys land, property or service to another for a specified time usually in return of periodic payment.

Licence: a contract for the non-exclusive use of a facility.

Licensee: a person, group, club or organisation that holds a licence for the use of a property.

Lessee: a person, group, club or organisation that holds the lease for the exclusive use of a property.

Sub-tenant: someone who occupies all or part of a premises under a lease agreement with the original/primary tenant of the premises.

User Agreement: contractual arrangement outlining the terms and conditions associated with usage, as negotiated.

Policy Statement

- a. Where a Lessee/Licensee:
 - i. does anything that constitutes a breach of any of their obligations under the tenancy agreement; or
 - ii. fails to do a thing where not doing that thing constitutes a breach of their obligations under the tenancy agreement.this will be reported to the Building Operations Manager in the first instance.
- b. In the event that a breach of agreement is clearly evident, the City will endeavour to provide the Lessee/Licensee in writing with a 'Breach Notice' within 48 hours of the breach occurring or being identified by the City.
- c. A Breach Notice **must be** in writing and signed by the Building Operations Manager, Manager Transport and Buildings or Director Infrastructure and Assets. The notice must clearly identify:
 - i. The premises.
 - ii. Date the breach occurred or date the breach was identified by the City.
 - iii. Which of the Lessee/Licensees obligations under the agreement have been breached; and
 - iv. A time frame as specified in the agreement, or when none is specified, no less than 28 full days from the date of the notice being considered as received/delivered, for the Lessee/Licensee to rectify the breach or pay compensation to the City.
 - v. The Lease/License holder has a responsibility to ensure upon receiving a Breach Notice, that this is also communicated to all relevant user groups, clubs, and sub-tenants of the premises.

1. Form of Delivery

- a. A Breach Notice must be in writing and may be given or made:
 - i. By delivery personally to one of the listed 'Authorised Contacts' as nominated by the Party.
 - ii. By registered post to the recorded postal address of the Party appearing on the Lease/Licence/User Agreement, or any other address nominated by the Party; or
 - iii. By email to the email address appearing on the Lease/Licence/User Agreement, or any other address nominated by the Party.
- b. A Breach Notice is deemed to be given or made:
 - iv. If by personal delivery, when delivered; or
 - v. If by post, on the fifth business day following the date of posting the notice; or
 - vi. If by email, when dispatched by email unless the time of dispatch is not on a business day or after 5pm on a business day, in which case it will be deemed to be given or made on the next following business day.
- c. It is assumed that the Lease/License holder, upon receiving a Breach Notice, has also communicated to all relevant user groups, clubs and sub-tenants of the premises as instructed in the notice.

2. Rectifying and/or Addressing a Breach

- a. It is considered that the Lessee/Licensee has adequately addressed a Breach Notice when the required remedial actions have been undertaken to the satisfaction of the City and within the timeframe specified. These may include any of the following actions:
 - i. Contacted the City, in writing, acknowledging the breach and offering a suitable solution

to resolve the breach and/or a negotiated outcome. With the City then providing confirmation in writing, agreeing to the alternative solution, and/or negotiated terms.

- ii. The City has been compensated for the loss or damage suffered as a result of the breach.
- iii. Any outstanding Rent, Outgoings, or Other Payments have been paid in full.
- iv. The Lessee/Licensee has complied with any notice provided, to remedy any default/breach to an acceptable standard, as determined by the City.

3. No Action Taken to Address a Breach of Agreement Terms

- a. The Lessee/Licensee is responsible for ensuring they adequately address a Breach Notice within the timeframe specified and provide the City with acknowledgement, in writing, upon receiving the notice.
- b. Where the Lessee/Licensee is in breach of their agreement terms for failure to pay any amounts payable to the City, or has failed to adequately rectify the breach within a reasonable time, the Lessee/Licensee will be advised in writing, that the matter will be referred to the City's Executive Leadership Team (ELT), where the following options will be considered, dependant on severity of situation:
 - i. Collection action for any outstanding amounts payable by the Lessee/Licensee.
 - ii. A notice to be sent by the City's Solicitors to the Lessee/Licensee, in an attempt to resolve the situation.
 - iii. A mediation meeting be arranged with the Lessee/Licensee and relevant City Officers to further discuss the breach of terms and negotiate a resolve.
 - iv. The City may remedy the breach at the Lessee's/Licensee's cost.
 - v. Dependant on the situation, a report be presented to Council to consider options for further action, in-line with the provisions of the agreement. The Lessee/Licensee will be notified in writing, that a report is being presented to the Council once the meeting agenda has been finalised.

4. Recording Breaches of Tenancy Agreements

- a. Breach notices will be recorded in the Lessee's/Licensee's files for 5 years and will be used to inform City officers when;
 - i. Reviewing the annual performance of Councils Community Lease, License and User Agreements.
 - ii. Renewing Lease, Licence or User Agreements.
 - iii. When deciding best course of action to take should the Lessee/Licensee fail to rectify or address a breach of a similar nature.
- b. Breach notices will not be considered by City officers in decision making after 5 years from the date of issue.

Related Legislation

Residential Tenancies Act 1987

Related Documentation

City of Bayswater Community and Commercial Lease KPI's and Assessment Criteria

City of Bayswater Lease Agreements

Community Facility Lease and License/User Agreement Policy

Document details

Relevant delegations	EF – D11 Leasing Agreements		
Risk evaluation	Moderate		
Strategic link	Work together to deliver the best outcomes for the community by managing our resources in a financially responsible way.		
Council adoption	22 March 2022	Resolution	10.6.1.3
Next review due	[date]		
Reviewed/modified	[date]	Resolution	[item no.]
Revision details	[description]		

9.4 Planning Policy Review: Significant Tree Register for Private Land Policy and associated Guidelines

Responsible Branch:	Property and Economic Development
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Legislative
Voting Requirement:	Simple Majority Required
Attachments:	<ol style="list-style-type: none"> 1. Draft Policy - Advertised [9.4.1 - 2 pages] 2. Draft Guidelines- Advertised [9.4.2 - 7 pages] 3. Draft Policy - Tracked Changes [9.4.3 - 3 pages] 4. Draft Guidelines - Tracked Changes [9.4.4 - 8 pages] 5. Revised Policy [9.4.5 - 3 pages] 6. Revised Guidelines [9.4.6 - 8 pages] 7. Submissions [9.4.7 - 15 pages]
Refer:	Item 10.5.2.7 OCM 22.10.2024

SUMMARY

Council consideration is sought in relation to the final approval of the City's draft modified *Significant Tree Register for Private Land Policy* and associated Guidelines.

The draft modified local planning policy was advertised for public comment from 7 November 2024 to 9 December 2024, during which time 490 people visited the policy online. 146 submissions were received during the public consultation period with 27% in support, 10% partially support, and 63% did not support the policy and guidelines.

OFFICER'S RECOMMENDATION

That Council adopts the revised Significant Tree Register for Private Land Policy and associated Guidelines as contained in Attachments 5 and 6 to this Report.

BACKGROUND

Council, at its Ordinary Meeting held on 22 October 2024, considered the revised Significant Tree Register for Private Land Policy and associated Guidelines and resolved as follows:

"That Council:

- 1. Adopts the amended Significant Tree Register for Private Land Policy and associated Guidelines as contained in Attachments 7 and 8 to this Report, for the purposes of public advertising and comment.*
- 2. Supports the City further investigating and implementing the outcomes identified within the Summary of Incentives for Trees on Private Land table as contained in Attachment 6 to this Report, and any changes to the City's Employee Establishment is to be considered as part of the 2025/26 business planning process.*
- 3. Requests the City to prepare an information sheet that summarises the benefits for landowners and developers from registering significant trees, the main planning requirements regarding trees for new developments, and how keeping mature trees on their land could benefit their development."*

Intent of Policy and advertised modifications

Town Planning Scheme No. 24 (TPS 24) Amendment 86 introduced provisions for the Significant Tree Register, with the final wording of the amendment being prepared by the Department of Planning, Lands and Heritage (DPLH) to be consistent with other local government scheme provisions.

The Policy and Guidelines provide a more detailed framework for the City to administer the register for significant trees on private land.

At the 30 September 2024 Policy Review and Development Committee the City recommended the following amendments to the policy and guidelines:

- Include reference to ‘incentives’ within the Guidelines introduction.
- Removed the requirement for affected neighbours to provide consent for a Significant Tree nomination.
- Modifications to the nomination assessment criteria.
- Improved readability and softened language used within the guidelines.
- Amended the 3m building height incentive to 2m, consistent with the City’s Delegated Authority Register.
- Format aligned for consistency with the City’s current policy format.

The Policy Review and Development Committee proposed additional amendments to the policy and guidelines, including:

- Additional policy objective to encourage landowners, especially developers, to retain significant trees on their property.
- Remove requirement for landowners consent to be provided with a tree nomination, and move the requirement for consent to the assessment stage.
- Additional requirement for affected neighbouring landowners to be notified during the assessment and determination process.

A copy of the advertised revised Significant Tree Register for Private Land Policy and associated Guidelines is contained in **Attachments 1 and 2**.

EXTERNAL CONSULTATION

The City advertised the revised policy and guidelines in accordance with Councils’ resolution for a period of 32 days from 7 November 2024 to 9 December 2024, by way of:

- Notification being published in the local newspaper(s).
- Information being placed on the City’s engagement website.
- Online promotion via a social media post, news article on City’s website, and two e-newsletters.
- Hard copies of the draft policy being made available for inspection at the City of Bayswater Civic Centre and libraries.

Advertising was undertaken concurrently with the draft modified *Trees and Private Land and Street Verges Policy*. During the public consultation period, 490 people visited the policy online via the City’s engagement website.

The following summarises activity via the City’s promotion channels:

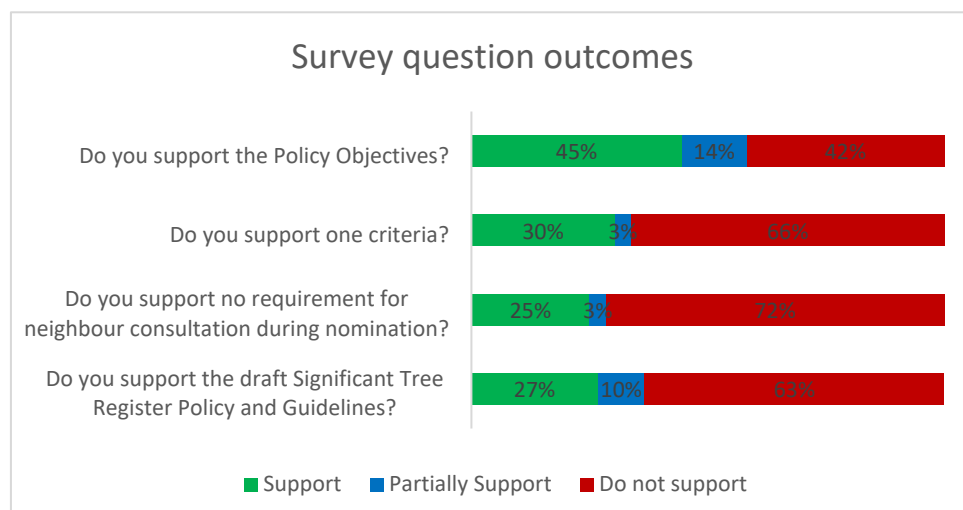
- City website news – published 7 Nov
 - 102 page views
- Social media advert
 - 512 clicks to Engage Bayswater page
 - 10,057 reach - the number of accounts that saw your ad at least once

- 29,062 impressions – this includes multiple views of your ad by the same account
- 634 engagements - the number of actions taken on your Facebook page, Instagram profile or any of your content, attributed to the ad

As part of the City's engagement website page, respondents were surveyed and asked to answer the following four questions specifically in relation to the *Significant Tree Register for Private Land Policy* and associated Guidelines:

1. Do you support the Policy objectives?
2. Do you support the amendment that a tree should be eligible for the register if it meets only one criterion from the guidelines?
3. Do you support the amendment that adjoining landowners no longer need to be consulted when a tree is nominated to be entered on the Significant Tree Register?
4. Do you support the draft Significant Tree Register Policy and Guidelines?

146 surveys were completed online, with 65 providing additional comments. The majority of the submissions did not support the proposed modifications to the policy and guidelines, with 63% not being in support, 10% partially supporting, and 27% supporting, as detailed in the following graph:



A summary of the submissions and comments are included in **Attachment 7** and are discussed further in the subsequent section of this report. Full copies of submissions can be made available on request.

OFFICER'S COMMENTS

Submissions

The submissions identified general overarching themes, which generally corresponded for each question. It was evident that the submissions in support recognised the importance of protecting mature trees, and that a less restrictive policy could result in nomination of more trees. The main concerns were government overreach, protection of landowner and neighbouring landowner property rights, policy does not go far enough to incentivise and encourage tree planting and could encourage pre-emptive clearing.

Policy Objectives

The majority of the submissions did support the policy objectives, with 45% in support, 14% partially supporting, and 42% not supporting.

The main reasons for supporting the policy objectives were the importance of maintaining and increasing tree canopy, particularly for biodiversity and microclimate, protecting trees during development, and the policy making it easier to register trees.

Partial support suggested modifications to the guidelines, including requirement for landowner and neighbouring landowner consent, importance of significant trees being diminished and needing more definition, incentives for planting, registration of significant trees should not be optional, and weed species should not be registered.

Submissions not in support of the policy objectives included loss of autonomy through government overreach, potential for property damage and possible liability issues, potential negative impact on development and provision of housing, potential for neighbour disputes, unfair that other people can nominate a tree on private property, unfair that impacted neighbours are not consulted, and possibility that pre-emptive clearing may occur. It was suggested that the policy does not go far enough to encourage retention and planting of new trees, and that alternatives such as development incentives and sinking power lines for a more wholistic approach.

City Response

Increasing tree canopy is an aim of the City, and the modifications to the policy are part of a wholistic approach to protecting trees. Landowner consent is required for a tree to be nominated, as specified in TPS 24. The policy allows for anyone to nominate a tree, however landowner consent is required before it can be assessed. It is considered that where a landowner is concerned that they would be unduly penalised by having a tree on the register, it is unlikely that their consent would be forthcoming. As consent of the landowner is required for nomination it is also considered unlikely that trees eligible for the register would be pre-emptively removed or not planted.

The policy allows for a degree of pruning and emergency works to be undertaken, and in the event that additional works are required then an application can be made for more extensive maintenance. Maintenance grants are available to the landowners of the property containing the tree and to adjoining affected landowners.

No modifications to the policy objectives are proposed, however these themes are reflected in submissions to the below survey questions, and modifications to the guidelines are proposed as a result.

Single Criteria

The majority of the submissions did not support having only one optional criteria, with 66% not in support, 3% partially supporting, and 30% supporting.

Reasons for supporting a single optional criteria included the importance of protecting tree canopy for the biodiversity and microclimate they provide, and the use of a single criteria will make it easier for trees to be registered and afforded protection.

The reasons for not supporting the use of a single optional criteria related to the policy being too easy to register a tree and therefore diminishing the term 'significant', government overreach, ratepayers becoming responsible for maintenance costs of trees on other's private property, and potentially encouraging pre-emptive clearing or not planting at all. Submissions also considered that the policy was still not easy enough to register a tree.

City Response

The aim of the review of the policy and guidelines was to assess options for making it less restrictive for a tree to be nominated for the significant tree register, which in turn will assist with

meeting the City's canopy targets. Concerns were raised however that if the policy is too easy then there will likely be trees nominated for the register which would otherwise not be considered to be significant. Also maintenance costs being subsidised by the City will be passed on to ratepayers for trees that are not necessarily significant. As a result, it is proposed to reintroduce the requirement for two criteria from two optional categories, however provide an option for a single criteria tree to be nominated, and assessed on its merits if the landowner and City considered it appropriate.

As noted above, it is considered unlikely that the policy and guidelines would result in pre-emptive removal of trees, or not planting at all, due to the requirement for landowners to consent to any nomination.

Neighbour Consent During Nomination

The majority of the submissions did not support the proposal to remove the requirement for impacted neighbour's consent, with 72% not being in support, 3% partially supporting, and 25% supporting.

Submissions in support noted removing the provision made it easier for trees to be registered and protected, by removing the need for neighbour's consent.

Submissions that were unsure of support noted that it depended on the impact on the neighbour, and that the City should be responsible for neighbour costs.

Submissions objecting raised concerns that the guidelines unfairly penalise neighbouring property owners through increased financial burden, impact on property values, potential for property damage, liability, impact on neighbours development potential, and also potential to escalate neighbour disputes.

City Response

The intention for removing the requirement for neighbour consent for nomination was to make the policy less restrictive to nominate a tree, so that a potential significant tree could be recognised. The modified policy proposes neighbour consultation during the assessment process, and this can be undertaken once the extent of impact is identified by an arborist. It is proposed to introduce a definition of an affected landowner, relating to intrusion of branches, canopy roots or tree protection zone into the adjoining property, which will assist in ensuring that adequate consultation is carried out with affected owners.

In regards to financial burden, neighbouring affected property owners are also eligible to obtain maintenance grants from the City. It is proposed that fees relating to approval for works to a significant tree also be waived for adjoining landowners.

It is also proposed to include a requirement for applications for works to trees be supplemented with an arboriculturist report, including development of adjoining land, which will serve to address both properties involved.

Policy and Guidelines

The majority of the submissions did not support the proposed modifications to the policy and guidelines, with 63% not being in support, 10% partially supporting, and 27% supporting.

Submissions in support considered the retention of mature tree canopy as important, and the amended policy would make retention easier.

Submissions partially supporting noted that the policy needs revision to require neighbour agreement and consultation, incentives, and mandatory inclusion on the register. Concerns were raised that the policy may encourage pre-emptive clearing and also penalises property owners.

Submissions objecting included government overreach, diminishes the importance of 'significant' trees, considered that it is important that the landowner and neighbour consent to nomination due to impact on property values, private property rights, nominee should not be able to contest decision for registration, impact on development potential, potential for property damage and subsequent liability issues, and lack of transparency. It was noted that the existing policy and guidelines were adequate and did not need modification.

City Response

The overall concerns raised by submissions have generally been addressed above by proposed further modifications to the guidelines. In addition, it is proposed to remove the ability for a nominee to request Council reconsideration in the event they are dissatisfied with a decision of the City regarding a nominated tree, to ensure landowner rights are protected and the guidelines are consistent with the requirements of TPS 24.

It is considered that the majority of the advertised modifications to the policy have merit and assist in making the policy less restrictive so that there are more opportunities for trees to be nominated and assessed. It is considered that the proposed further revisions to the policy outlined above, and detailed below, will result in a policy that balances ease of nominating with protecting landowner rights.

Proposed Modifications

As noted above the intention of the policy is to protect Significant Trees. To achieve this, it is considered the policy needs to find a balance between simplifying and incentivising the registration of Significant Trees, whilst also sufficiently protecting the rights of landowners and impacted neighbouring property owners. As a result of the outcomes of the public consultation the following modifications to the advertised policy are therefore proposed:

Submission	City's Response	Recommended Modification
<i>Topic/theme: impact on property owners</i>		
Landowners consent should be required. Liability concerns.	<p>The provisions of TPS 24 Schedule A – Supplemental Provision to the Deemed Provisions requires the landowner's written nomination before a tree can be included or removed from the significant tree register.</p> <p>The DPLH have advised that the intent of the wording of the scheme provision was that landowner consent was critical to retain in the absence of any legal advice to support third party nominations, and confirmed that its intent and operation should not be to allow third parties to blanket nominate</p>	<p>Under the Guidelines "Nominations" include the following nomination provisions:</p> <p>"2. Any person can apply for a Significant Tree(s) on private land for inclusion on the Significant Tree Register, <u>provided all landowner(s) consent to the application.</u>"</p> <p>Under "Tree Nomination Assessment and Decision Making Process" Stage 1 modify bullet point 2:</p> <p>"2. where applicable, the <u>City nominator</u> will obtain landowner(s) and any</p>

Submission	City's Response	Recommended Modification
	<p>trees for the register.</p> <p>It is considered that the Policy can provide guidance to the nomination process to allow third parties to nominate a tree with landowner consent, and the receipt of that consent could constitute written nomination by the landowner in fulfilment of the scheme provision. DPLH agreed this would not conflict with the provision of the scheme.</p> <p>It is recommended to retain the ability for anyone to request that a tree be nominated, however ensuring landowner consent is required for the nomination to be valid.</p>	<p>relevant strata body or similar consent."</p>
<p>Nominees should not have ability to request Council consideration.</p>	<p>The Guideline's Tree Nomination Assessment and Decision Making Process Stage 2 bullet point 3 allows for the nominee to request a decision about a tree be referred to Council if they are dissatisfied. This implies the nominator, who may not be the landowner, has the ability to contest the decision through Council.</p> <p>It is recommended that the reference to nominee be modified to landowner to resolve the ambiguity.</p>	<p>Tree Nomination Assessment and Decision Making Process Stage 2 bullet point 3:</p> <p>"If the nominee <u>landowner</u> is dissatisfied by the decision, they can request for it to be referred to Council to make a decision."</p>
<p><i>Topic/theme: diminish meaning of 'significance' / policy needs to be easy to register a significant tree</i></p>		
<p>Having a single optional criteria for assessment could result in inappropriate trees, that are not necessarily significant, being included on the register.</p> <p>Policy needs to be less restrictive, and easier to</p>	<p>At this stage there have been no private trees included on the Significant Tree Register, indicating that the policy and guidelines may be too restrictive in requiring criteria from two categories to be met.</p>	<p>Under the guidelines 'Significant Tree Assessment Criteria' modify second bullet point:</p> <p>"Satisfy at least <u>two different</u> optional categories (Categories 1 to 5), to the satisfaction of the City."</p>

Submission	City's Response	Recommended Modification
register.	<p>The advertised policy sought to have a single criteria to make registration less restrictive.</p> <p>Given the concerns raised during consultation, as a compromise it is proposed to retain the requirement for two different optional categories. However in the event that a tree cannot satisfy two, include a provision for the City to consider the tree for inclusion on the register on its merits.</p>	<p>Insert third bullet point:</p> <p><u>"Where a tree only meets one criteria from one optional category, the City may consider the nomination on it's merits."</u></p>
<i>Topic/theme:</i> impact on adjoining property owners		
Impacted neighbouring landowner(s) consent should be required. Liability concerns.	<p>The requirement for neighbour consent was proposed to be removed from the guidelines to make registration of a tree less restrictive.</p> <p>It is recommended that the requirement proposed during consultation be retained, and a definition for affected neighbouring landowner be included in the guidelines. This will enable nomination of a tree without neighbour consent, however ensures that affected landowners will be included in the assessment process.</p> <p>It is also proposed to include the identification of the TPZ in the General Category so that this is captured in the initial assessment so that affected neighbouring properties can be identified.</p>	<p>Under "Definitions" include:</p> <p><u>"Affected neighbouring landowner(s) – owners of properties that have branches, canopy, roots, or located within the TPZ, of a significant tree(s) encroaching into their property."</u></p> <p>Under "Policy Statement - General Category", additional bullet point:</p> <p><u>9. Identification of a Tree Protection Zone and any affected properties.</u></p>
	Significant Trees may have some impact on adjoining property, and vice versa. To provide a mechanism to determine impact at the time of application for	<p>Under "What requires the City's Development Approval" include additional bullet point:</p> <p><u>"5. Applications for removal, destruction and</u></p>

Submission	City's Response	Recommended Modification
	Development Approval, it is recommended that an Arborist's report be submitted.	interference are to be supplemented with an suitably qualified Arboriculturist Report, including development of adjoining land."
Financial impact, property damage	The guidelines currently provide for tree maintenance grants for affected neighbouring landowners, but these are restricted to maintenance. It is recommended that the ability to waive fees for applications for Development Approval relating to significant trees also be waived for adjoining affected landowners.	Modify the guidelines Incentives bullet point 1 to include: 1. Landowner(s) and affected neighbouring landowner(s) written planning advice and approval relating to significant tree(s) fees waived.

A copy of the revised policy with tracked changes is contained in **Attachment 3 and 4**, and a clean copy of the revised policy is contained in **Attachment 5 and 6**.

Information Sheet

As per the 22 October 2024 resolution an information sheet has been drafted that summarises the benefits for landowners and developers from registering significant trees, the main planning requirements regarding trees for new developments, and how keeping mature trees on their land could benefit their development. The information sheet will be finalised once the amendments to the policy and guidelines have been finalised and adopted by Council.

LEGISLATIVE COMPLIANCE

Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the procedure for amending a local planning policy.

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the officer's recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Medium	Low
Reputation and Stakeholders	Medium	Low
Service Delivery	Medium	Low
Environment	Low	Low
Governance and Compliance	Low	Low
Strategic Risk	SR03 - Council plans, decision making process and/or activities fail to invest in the management, protection and improvement of its natural environment.	

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031, the following applies:

Theme: Environment and Liveability
Goal E2: Remain focused on greening the City's suburbs and streetscapes and increasing the tree canopy.
Goal E4: Lessen the City's Impact on the environment through its buildings, infrastructure, services and targets, such as zero emissions by 2040, and empower the community to live sustainably.

Theme: Leadership and Governance
Goal L4: Communicate in a clear and transparent way.
Provide the community with useful information about Council's policies, services and events and advise the community of engagement outcomes.

The draft modified *Significant Tree Register for Private Land Policy* and Associated Guidelines provides a useful readable policy and guidelines encouraging the registering of significant trees on private land, contributing to maintaining existing tree canopy throughout the City of Bayswater.

CONCLUSION

It is recommended that the modified *Significant Tree Register for Private Land Policy* and associated *Guidelines* are adopted by Council, as contained in **Attachment 5 and 6**.



Significant Tree Register for Private Land Policy

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Purpose

The purpose of this policy is to outline information, requirements and guidance in relation to:

- Including or removing a tree from the City of Bayswater Significant Tree Register on private land; and
- Removing, destructing, interfering and/or maintaining a tree on the City of Bayswater Significant Tree Register for Private Land.

Objectives

The objectives of this policy are:

1. To identify and recognise the importance of significant trees in the City of Bayswater to ensure an increased level of protection and care.
2. To ensure that the processing and assessment of significant trees is fair, accountable, consistent and comparable.
3. To assist with meeting the City's tree canopy target.
4. To encourage landowners, especially developers, to retain significant trees on their property.

Scope

This policy applies to existing or potential trees on private land that could be included on the City of Bayswater Significant Tree Register.

Introduction

The City of Bayswater has a number of trees that hold special aesthetic, social and cultural value to the community. Inclusion of these trees on the City of Bayswater Significant Tree Register acknowledges their

value and can also provide them with statutory protection in accordance with the City of Bayswater *Town Planning Scheme No. 24* Schedule A - Supplemental Provisions to the Deemed Provisions to better ensure their ongoing conservation and care.

Requirements

1. Applications to include or remove a tree from the City of Bayswater Significant Tree Register are to be made in accordance with the City's Significant Tree Register Guidelines for Private Land.
2. Development approval is required prior to the removal, destruction, and/or interference with any tree included on the significant tree register. The proposed removal, destruction, interference and/or maintenance of a Significant Tree is to be undertaken in accordance with the City's Significant Tree Register Guidelines for Private Land.

Related Legislation

This policy is adopted under all Local Planning Schemes in force within the City of Bayswater, in accordance with Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

City of Bayswater Town Planning Scheme No. 24 Schedule A - Supplemental Provisions to the Deemed Provisions provides Significant Trees protection under Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

- City of Bayswater *Town Planning Scheme*.
- Urban Forest Strategy.
- Significant Tree Register for Private Land Guidelines.
- City of Bayswater Significant Tree Register for Private Land.

Document details

Relevant delegations	TP-D01		
Risk evaluation	Low		
Strategic link	Environment and Liveability Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.		
Council adoption	23 August 2022	Resolution	10.6.2.4
Reviewed/modified	September 2024	Resolution	[item no.]
Next review due	[date]		



Significant Tree Register for Private Land Guidelines

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Introduction

These guidelines provide guidance including incentives for people wanting to include or remove a tree from the City of Bayswater Significant Tree Register on private land in accordance with the Significant Trees Register for Private Land Policy.

In addition, these guidelines provide information about the removal, destruction, interference and/or maintenance of a tree, which is registered on the City of Bayswater Significant Tree Register.

Nominations

1. The significant tree register application form is required to be filled out and signed.
2. Any person can apply for a Significant Tree(s) on private land for inclusion on the Significant Tree Register.
3. Any person who nominates a tree and landowner(s) who consent will bear no cost for an application to the City to consider registering the tree.

Definitions

Tree Protection Zone (TPZ) – A protection zone that protects all parts of a tree from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Structural Root Zone (SRZ) – A protection zone that protects tree roots from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Suitably Qualified Arborist – An arborist that has a current and valid minimum qualification of an Australian Qualification Framework - Level 5 (Diploma) in Arboriculture.

Significant Tree Assessment

1. Consent from the landowner(s) and any applicable strata body or similar is required prior to the City engaging a suitably qualified arborist to prepare the Significant Tree Assessment for inclusion on the Significant Tree Register.
2. Consent from the landowner(s) and any applicable strata body or similar can be provided by the nominee or be requested by the City.
3. If landowner(s) and any applicable strata body or similar consent has not been obtained, the City will not progress with the nomination.
4. Costs associated with the Significant Tree Assessment are to be borne by the City.
5. The applicant can provide the City a copy of a Significant Tree Assessment undertaken by a suitably qualified arborist and be reimbursed for the cost, up to a maximum of \$1,000.
6. The Significant Tree Assessment is to provide justification that the tree satisfies the Significant Tree Assessment Criteria.

Significant Tree Assessment Criteria

To be considered worthy of inclusion on the Significant Tree Register, trees must:

- Satisfy all the criteria from the General Category, to the satisfaction of the City; and
- Satisfy at least one criterion from the optional categories (Categories 1 to 5), to the satisfaction of the City.

The City will engage a suitably qualified arborist where required to prepare the Significant Tree Assessment.

Policy Statement

General Category

The Significant Tree Assessment is to include:

1. Address of the site containing the tree(s).
2. Botanical name of the tree(s).
3. Measurements of the tree(s), including: height, diameter at breast height (1.4m) and width of canopy.
4. A Tree Risk Assessment using either the Quantified Tree Risk Assessment (QTRA) or Tree Risk Assessment Qualification (TRAQ) system, including distance to targets identified in the risk assessment such as buildings, sheds, etc. on both the subject site and neighbouring properties.
5. Age classification of the tree(s).
6. Observations of the tree(s) health and condition.
7. Supporting photographs of the tree(s).
8. An aerial photograph showing the location of the tree(s).

Optional Category 1 – Growth/Size Significance

1. A tree(s) that is outstanding for its height or trunk circumference - 500mm diameter measured 1.4m above the ground and/or over 7m high.

Optional Category 2 – Outstanding Visual/Aesthetic Significance

1. A tree(s) that occurs in a prominent location or context;
2. A tree(s) that contributes significantly to the landscape in which it grows in comparison to other trees within a 100m radius - including streetscapes, parks, gardens or natural landscapes;
3. A tree(s) that exhibits an unusual growth form or physical feature; and/or
4. A tree(s) that is of a significant age - 100 years or older.

Optional Category 3 – Botanic/Scientific Significance

1. A tree(s) that is of an important genetic value that could provide important and valuable propagating stock. This could include specimens that are particularly resistant to disease or climatic extremes or have a particular growth form; and/or
2. A tree(s) that demonstrates a likelihood for producing information that will help the wider understanding of natural or cultural history by virtue of its use as a research site, teaching site, type locality or benchmark site.

Optional Category 4 – Significant Ecological Value

1. A priority, rare, threatened or locally uncommon species or ecological community;
2. An indigenous/endemic remnant tree(s) that predates the urban development in its immediate proximity;
3. A tree(s) that makes a significant contribution to the integrity of an ecological community, including its role as a seed source or specialised habitat;
4. A remnant endemic specimen(s) now reduced in range or abundance, which indicates the former extent of the species, particularly range limits;
5. A tree(s) that is part of a significant habitat element for rare, threatened, priority or locally uncommon or common native species; and/or
6. A tree(s) proximity to recognised ecological linkages or biodiversity corridors.

Optional Category 5 – Historical, Commemorative, Cultural or Social Significance

1. A tree(s) that is associated with public significance or important historical event for the City; and/or
2. A tree(s) that is highly valued by the community or cultural groups for reasons of strong religious, spiritual, cultural or other social associations, including trees associated with Aboriginal heritage and culture.

Tree Nomination Assessment and Decision Making Process

Stage 1
<ol style="list-style-type: none">1. Applications will be checked to ensure that all the information has been provided.2. Where applicable, the City will obtain landowner(s) and any relevant strata body or similar consent.3. The City will undertake a Significant Tree Assessment using a qualified arborist, or the applicant may provide a copy Significant Tree Assessment undertaken by a qualified arborist.4. Affected neighbours will be notified during the assessment process.5. Further advice may be drawn upon from internal or external personnel as the need arises to ensure a thorough assessment is undertaken.
Stage 2
<ol style="list-style-type: none">1. The City will make a decision on the tree's worthiness for inclusion on the Significant Tree Register based on the assessment criteria and qualified arborist assessment.2. The nominee, landowner(s) and any affected neighbouring landowner(s) will be informed of the decision in writing.3. If the nominee is dissatisfied by the decision, they can request for it to be referred to Council to make a decision.
Stage 3
<ol style="list-style-type: none">1. Trees approved will be formally listed on the Significant Tree Register, which will include details about the tree, a photograph and a statement detailing its significance. The location of the other information will be included on the City's Geographic Information System.

Tree Maintenance Grants

Landowner(s) and /or affected neighbouring landowner(s) with a tree(s) registered on the significant tree register may be eligible to apply for a tree maintenance grant subject to the following.

1. Funding up to \$2,000 per property but not exceeding 50% of the total cost of the approved maintenance is available from the City, and is exclusive of any applicable GST.
2. Each property is entitled to one grant per five year period.
3. The application is for one or more of the following works:
 - Remedial pruning;
 - Crown thinning;
 - Pest control or the like;
 - To seek the advice of a qualified arborist; or
 - For other works specified by a qualified arborist.

4. Payment will be in the form of reimbursement to the previously agreed amount upon presentation of proof of payment and certification by the arborist of approved works. The City may inspect and photograph trees before and after the approved works.

Incentives

The following incentives are applicable where a significant tree exists on private land:

1. Landowner(s) written planning advice and approval relating to significant tree(s) fees waived.
2. Landowner(s) development application fees waived for development on the property.
3. Landowner(s) can apply for a variation to the site cover and open space provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
4. Landowner(s) can apply a variation to the plot ratio provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
5. Landowner(s) can apply for a variation to building height of up to 2m.

Landowner(s) will be made aware of the incentives for retaining trees on private land at the demolition permit, subdivision application and development application stage. The City will recommend an advice note be placed on the subdivision determination where trees over 7m in height are located on the property.

What requires the City's Development Approval

1. Development approval from the City of Bayswater is required prior to the removal, destruction and/or interference with any tree included on the City's Significant Tree Register, this includes:
 - (a) The severing of branches, limbs, stems, trunk or roots of a tree that are greater than 50mm in diameter;
 - (b) Any excavation resulting in removal of roots greater than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ);
 - (c) Any excavation within the trees Structural Root Zone (SRZ) that requires the removal of any root;
 - (d) Pruning for aesthetic appearance; and/or
 - (e) Any other act that has the potential to cause damage to a tree, as determined by the City.
2. If a landowner(s) or neighbouring landowner(s) is in any doubt about what requires development approval, they are advised to liaise with the City prior to undertaking any pruning or other works.
3. Landowner(s) or neighbouring landowner(s) are advised to discuss with City officers what information is to be submitted with an application for development approval. Applications are to be accompanied by an assessment of the tree undertaken by a qualified arborist, with all associated costs being borne by the landowner(s) or relevant neighbouring landowner(s).
4. Approved works must be undertaken by a qualified arborist, to the satisfaction of the City.

What does not require the City's Development Approval

Pruning

Pruning of a significant tree is permitted to be undertaken by a qualified arborist (with all associated costs being borne by the landowner), without the need for development approval from the City, in the following circumstances:

1. The removal of dead wood or the treatment of disease where it is in the general interests of improving or maintaining the health of the tree;
2. Any excavation resulting in removal of roots less than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ); and/or
3. Works required to maintain the legislated clearance requirements for utility services providers, such as Western Power or the Water Corporation.

It is noted that the severing of any branches, limbs, stems or roots of a tree that are less than 50mm in diameter do not require development approval or for the works to be undertaken by a qualified arborist.

Emergency Works

1. The following exemption for obtaining Development Approval prior to the removal of a significant tree apply:
 - (a) The removal is deemed as works that are urgently necessary for the safety of people and property, public safety, safety or security of plant or equipment, maintenance of essential services, or protection of the environment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 Part 7 Clause 61 (b) item 18.
2. Landowner(s) or neighbouring landowner(s) are required to notify the City in writing within five working days following the emergency work having been undertaken. Notification must include a report by the qualified arborist who carried out the work.

Implications and Responsibilities

Implications and Responsibilities for Landowners

Landowners are advised to think carefully before nominating or consenting to a tree for inclusion on the Significant Tree Register. A significant tree has the following implications for landowners:

1. Landowners are responsible for the ongoing health and maintenance of a significant tree within their property boundary. All associated costs are to be borne by the landowner.
2. All maintenance and other works are required to be undertaken by a qualified arborist. All associated costs are to be borne by the landowner.
3. While some works can be undertaken to a significant tree without development approval, landowners will need to apply for and obtain development approval to undertake certain works associated with a significant tree.
4. A significant tree has the potential to constrain the future development potential of the property.
5. A significant tree may only be removed from the Significant Tree Register under certain circumstances.
6. A significant tree will remain on the Significant Tree Register if/when land ownership changes.
7. A significant tree may impact insurance policies. Landowners are advised to check with their insurance provider in this regard.

8. All future landowner(s) will be made aware of any significant tree which impacts their property.

Implications and Responsibilities for Neighbouring Properties

The inclusion of a tree on the Significant Tree Register may have the following implications for neighbouring properties:

1. Neighbouring landowners are responsible for the ongoing health and maintenance of any part of a significant tree that overhangs their property up to the boundary line. All associated costs are to be borne by the impacted landowner.
2. Where part of a significant tree overhangs a neighbouring property, all maintenance and other works up to the property boundary is required to be undertaken by a qualified arborist. All associated costs are to be borne by the impacted landowner.
3. While some pruning and other works can be undertaken to a significant tree without development written approval, neighbouring landowners will need to apply for and obtain development written approval to undertake certain works associated with any part of a significant tree that overhangs their property up to the boundary line.
4. All associated costs relating to clause 1, 2 and 3 above are to be borne by the impacted landowner.
5. Where part of a significant tree overhangs a neighbouring property, it may constrain the development potential of the property.
6. All future affected neighbouring landowner(s), which have or are likely to have branches, canopy or roots of a significant tree(s) encroaching into their property, will be made aware of any significant tree which impacts their property. The City will advise future affected neighbouring landowner(s) of this when issuing a Certificate of Information Relating to Land in response to a land information enquiry.

Removal from Register

Subject to obtaining development approval from the City, a tree may be removed from the Significant Tree Register if:

1. The tree is dead;
2. The tree poses an unacceptable level of risk within its structure and remedial techniques cannot rectify it;
3. The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it; and/or
4. The tree is causing significant damage to infrastructure and/or the property, and suitable documented evidence is provided by a qualified arborist, at the expense of the applicant.

The following reasons will not be considered sufficient for removal:

1. Withdrawal of the support from the landowner (or new landowner).
2. To facilitate the placement of a permanent vehicle access crossing; unless it is to facilitate the placement of a permanent vehicle access crossing as a last resort, where there is no other viable option.

To remove a tree from the Significant Tree Register, landowners are required to provide an assessment from a qualified arborist detailing evidence and reasons why the tree should be removed from the Register. All associated costs are to be borne by the landowner.



Significant Tree Register for Private Land Policy

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Purpose

The purpose of this policy is to outline information, requirements and guidance in relation to:

- Including or removing a tree from the City of Bayswater Significant Tree Register on private land; and
- Removing, destructing, interfering and/or maintaining a tree on the City of Bayswater Significant Tree Register for Private Land.

Objectives

The objectives of this policy are:

1. To identify and recognise the importance of significant trees in the City of Bayswater to ensure an increased level of protection and care.
2. To ensure that the processing and assessment of significant trees is fair, accountable, consistent and comparable.
3. To assist with meeting the City's tree canopy target.
4. To encourage landowners, especially developers, to retain significant trees on their property.

Scope

This policy applies to existing or potential trees on private land that could be included on the City of Bayswater Significant Tree Register.

Introduction

The City of Bayswater has a number of trees that hold special aesthetic, social and cultural value to the community. Inclusion of these trees on the City of Bayswater Significant Tree Register acknowledges their value and can also provide them with statutory protection in accordance with the City of Bayswater *Town Planning Scheme No. 24* Schedule A - Supplemental Provisions to the Deemed Provisions to better ensure their ongoing conservation and care.

Requirements

1. Applications to include or remove a tree from the City of Bayswater Significant Tree Register are to be made in accordance with the City's Significant Tree Register Guidelines for Private Land.
2. Development approval is required prior to the removal, destruction, and/or interference with any tree included on the significant tree register. The proposed removal, destruction, interference and/or maintenance of a Significant Tree is to be undertaken in accordance with the City's Significant Tree Register Guidelines for Private Land.

Related Legislation

This policy is adopted under all Local Planning Schemes in force within the City of Bayswater, in accordance with Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

City of Bayswater Town Planning Scheme No. 24 Schedule A - Supplemental Provisions to the Deemed Provisions provides Significant Trees protection under Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

- City of Bayswater *Town Planning Scheme*.
- Urban Forest Strategy.
- Significant Tree Register for Private Land Guidelines.
- City of Bayswater Significant Tree Register for Private Land.

Document details

Relevant delegations	TP-D01		
Risk evaluation	Low		
Strategic link	Environment and Liveability Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.		
Council adoption	23 August 2022	Resolution	10.6.2.4
Reviewed/modified	September 2024	Resolution	[item no.]

Next review due	[date]
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Significant Tree Register for Private Land Guidelines

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Introduction

These guidelines provide guidance including incentives for people wanting to include or remove a tree from the City of Bayswater Significant Tree Register on private land in accordance with the Significant Trees Register for Private Land Policy.

In addition, these guidelines provide information about the removal, destruction, interference and/or maintenance of a tree, which is registered on the City of Bayswater Significant Tree Register.

Nominations

1. The significant tree register application form is required to be filled out and signed.
2. Any person can apply for a Significant Tree(s) on private land for inclusion on the Significant Tree Register, provided all landowner(s) consent to the application.
3. Any person who nominates a tree and landowner(s) who consent will bear no cost for an application to the City to consider registering the tree.

Definitions

Tree Protection Zone (TPZ) – A protection zone that protects all parts of a tree from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Structural Root Zone (SRZ) – A protection zone that protects tree roots from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Suitably Qualified Arborist – An arborist that has a current and valid minimum qualification of an Australian Qualification Framework - Level 5 (Diploma) in Arboriculture.

Affected neighbouring landowner(s) – owners of properties that have branches, canopy, roots, or located within the TPZ, of a significant tree(s) encroaching into their property.

Significant Tree Assessment

1. Consent from the landowner(s) and any applicable strata body or similar is required prior to the City engaging a suitably qualified arborist to prepare the Significant Tree Assessment for inclusion on the Significant Tree Register.
2. Consent from the landowner(s) and any applicable strata body or similar can be provided by the nominee or be requested by the City.
3. If landowner(s) and any applicable strata body or similar consent has not been obtained, the City will not progress with the nomination.
4. Costs associated with the Significant Tree Assessment are to be borne by the City.
5. The applicant can provide the City a copy of a Significant Tree Assessment undertaken by a suitably qualified arborist and be reimbursed for the cost, up to a maximum of \$1,000.
6. The Significant Tree Assessment is to provide justification that the tree satisfies the Significant Tree Assessment Criteria.

Significant Tree Assessment Criteria

To be considered worthy of inclusion on the Significant Tree Register, trees must:

- Satisfy all the criteria from the General Category, to the satisfaction of the City; and
- Satisfy at least ~~one criterion~~ two different from the optional categories (Categories 1 to 5), to the satisfaction of the City.
- Where a tree only meets one criteria from one optional category, the City may consider the nomination on it's merits."

The City will engage a suitably qualified arborist where required to prepare the Significant Tree Assessment.

Policy Statement

General Category

The Significant Tree Assessment is to include:

1. Address of the site containing the tree(s).
2. Botanical name of the tree(s).
3. Measurements of the tree(s), including: height, diameter at breast height (1.4m) and width of canopy.
4. A Tree Risk Assessment using either the Quantified Tree Risk Assessment (QTRA) or Tree Risk Assessment Qualification (TRAQ) system, including distance to targets identified in the risk assessment such as buildings, sheds, etc. on both the subject site and neighbouring properties.
5. Age classification of the tree(s).
6. Observations of the tree(s) health and condition.
7. Supporting photographs of the tree(s).

8. An aerial photograph showing the location of the tree(s).
9. Identification of a Tree Protection Zone and any affected properties.

Optional Category 1 – Growth/Size Significance

1. A tree(s) that is outstanding for its height or trunk circumference - 500mm diameter measured 1.4m above the ground and/or over 7m high.

Optional Category 2 – Outstanding Visual/Aesthetic Significance

1. A tree(s) that occurs in a prominent location or context;
2. A tree(s) that contributes significantly to the landscape in which it grows in comparison to other trees within a 100m radius - including streetscapes, parks, gardens or natural landscapes;
3. A tree(s) that exhibits an unusual growth form or physical feature; and/or
4. A tree(s) that is of a significant age - 100 years or older.

Optional Category 3 – Botanic/Scientific Significance

1. A tree(s) that is of an important genetic value that could provide important and valuable propagating stock. This could include specimens that are particularly resistant to disease or climatic extremes or have a particular growth form; and/or
2. A tree(s) that demonstrates a likelihood for producing information that will help the wider understanding of natural or cultural history by virtue of its use as a research site, teaching site, type locality or benchmark site.

Optional Category 4 – Significant Ecological Value

1. A priority, rare, threatened or locally uncommon species or ecological community;
2. An indigenous/endemic remnant tree(s) that predates the urban development in its immediate proximity;
3. A tree(s) that makes a significant contribution to the integrity of an ecological community, including its role as a seed source or specialised habitat;
4. A remnant endemic specimen(s) now reduced in range or abundance, which indicates the former extent of the species, particularly range limits;
5. A tree(s) that is part of a significant habitat element for rare, threatened, priority or locally uncommon or common native species; and/or
6. A tree(s) proximity to recognised ecological linkages or biodiversity corridors.

Optional Category 5 – Historical, Commemorative, Cultural or Social Significance

1. A tree(s) that is associated with public significance or important historical event for the City; and/or
2. A tree(s) that is highly valued by the community or cultural groups for reasons of strong religious, spiritual, cultural or other social associations, including trees associated with Aboriginal heritage and culture.

Tree Nomination Assessment and Decision Making Process

Stage 1

1. Applications will be checked to ensure that all the information has been provided.
2. Where applicable, the **City nominator** will obtain landowner(s) and any relevant strata body or similar consent.
3. The City will undertake a Significant Tree Assessment using a qualified arborist, or the applicant may provide a copy Significant Tree Assessment undertaken by a qualified arborist.
4. Affected neighbours will be notified during the assessment process.
5. Further advice may be drawn upon from internal or external personnel as the need arises to ensure a thorough assessment is undertaken.

Stage 2

1. The City will make a decision on the tree's worthiness for inclusion on the Significant Tree Register based on the assessment criteria and qualified arborist assessment.
2. The nominee, landowner(s) and any affected neighbouring landowner(s) will be informed of the decision in writing.
3. If the **nominee landowner** is dissatisfied by the decision, they can request for it to be referred to Council to make a decision.

Stage 3

1. Trees approved will be formally listed on the Significant Tree Register, which will include details about the tree, a photograph and a statement detailing its significance. The location of the other information will be included on the City's Geographic Information System.

Tree Maintenance Grants

Landowner(s) and /or affected neighbouring landowner(s) with a tree(s) registered on the significant tree register may be eligible to apply for a tree maintenance grant subject to the following.

1. Funding up to \$2,000 per property but not exceeding 50% of the total cost of the approved maintenance is available from the City, and is exclusive of any applicable GST.
2. Each property is entitled to one grant per five year period.
3. The application is for one or more of the following works:
 - Remedial pruning;

- Crown thinning;
 - Pest control or the like;
 - To seek the advice of a qualified arborist; or
 - For other works specified by a qualified arborist.
4. Payment will be in the form of reimbursement to the previously agreed amount upon presentation of proof of payment and certification by the arborist of approved works. The City may inspect and photograph trees before and after the approved works.

Incentives

The following incentives are applicable where a significant tree exists on private land:

1. Landowner(s) and affected neighbouring landowner(s) written planning advice and approval relating to significant tree(s) fees waived.
2. Landowner(s) development application fees waived for development on the property.
3. Landowner(s) can apply for a variation to the site cover and open space provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
4. Landowner(s) can apply a variation to the plot ratio provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
5. Landowner(s) can apply for a variation to building height of up to 2m.

Landowner(s) will be made aware of the incentives for retaining trees on private land at the demolition permit, subdivision application and development application stage. The City will recommend an advice note be placed on the subdivision determination where trees over 7m in height are located on the property.

What requires the City's Development Approval

1. Development approval from the City of Bayswater is required prior to the removal, destruction and/or interference with any tree included on the City's Significant Tree Register, this includes:
 - (a) The severing of branches, limbs, stems, trunk or roots of a tree that are greater than 50mm in diameter;
 - (b) Any excavation resulting in removal of roots greater than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ);
 - (c) Any excavation within the trees Structural Root Zone (SRZ) that requires the removal of any root;
 - (d) Pruning for aesthetic appearance; and/or
 - (e) Any other act that has the potential to cause damage to a tree, as determined by the City.

2. If a landowner(s) or neighbouring landowner(s) is in any doubt about what requires development approval, they are advised to liaise with the City prior to undertaking any pruning or other works.
3. Landowner(s) or neighbouring landowner(s) are advised to discuss with City officers what information is to be submitted with an application for development approval. Applications are to be accompanied by an assessment of the tree undertaken by a qualified arborist, with all associated costs being borne by the landowner(s) or relevant neighbouring landowner(s).
4. Approved works must be undertaken by a qualified arborist, to the satisfaction of the City.
5. Applications for removal, destruction and interference are to be supplemented with an suitably qualified Arboriculturist Report, including development of adjoining land.

What does not require the City's Development Approval

Pruning

Pruning of a significant tree is permitted to be undertaken by a qualified arborist (with all associated costs being borne by the landowner), without the need for development approval from the City, in the following circumstances:

1. The removal of dead wood or the treatment of disease where it is in the general interests of improving or maintaining the health of the tree;
2. Any excavation resulting in removal of roots less than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ); and/or
3. Works required to maintain the legislated clearance requirements for utility services providers, such as Western Power or the Water Corporation.

It is noted that the severing of any branches, limbs, stems or roots of a tree that are less than 50mm in diameter do not require development approval or for the works to be undertaken by a qualified arborist.

Emergency Works

1. The following exemption for obtaining Development Approval prior to the removal of a significant tree apply:
 - (a) The removal is deemed as works that are urgently necessary for the safety of people and property, public safety, safety or security of plant or equipment, maintenance of essential services, or protection of the environment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 Part 7 Clause 61 (b) item 18.
2. Landowner(s) or neighbouring landowner(s) are required to notify the City in writing within five working days following the emergency work having been undertaken. Notification must include a report by the qualified arborist who carried out the work.

Implications and Responsibilities

Implications and Responsibilities for Landowners

Landowners are advised to think carefully before nominating or consenting to a tree for inclusion on the Significant Tree Register. A significant tree has the following implications for landowners:

1. Landowners are responsible for the ongoing health and maintenance of a significant tree within their property boundary. All associated costs are to be borne by the landowner.

2. All maintenance and other works are required to be undertaken by a qualified arborist. All associated costs are to be borne by the landowner.
3. While some works can be undertaken to a significant tree without development approval, landowners will need to apply for and obtain development approval to undertake certain works associated with a significant tree.
4. A significant tree has the potential to constrain the future development potential of the property.
5. A significant tree may only be removed from the Significant Tree Register under certain circumstances.
6. A significant tree will remain on the Significant Tree Register if/when land ownership changes.
7. A significant tree may impact insurance policies. Landowners are advised to check with their insurance provider in this regard.
8. All future landowner(s) will be made aware of any significant tree which impacts their property.

Implications and Responsibilities for Neighbouring Properties

The inclusion of a tree on the Significant Tree Register may have the following implications for neighbouring properties:

1. Neighbouring landowners are responsible for the ongoing health and maintenance of any part of a significant tree that overhangs their property up to the boundary line. All associated costs are to be borne by the impacted landowner.
2. Where part of a significant tree overhangs a neighbouring property, all maintenance and other works up to the property boundary is required to be undertaken by a qualified arborist. All associated costs are to be borne by the impacted landowner.
3. While some pruning and other works can be undertaken to a significant tree without development written approval, neighbouring landowners will need to apply for and obtain development written approval to undertake certain works associated with any part of a significant tree that overhangs their property up to the boundary line.
4. All associated costs relating to clause 1, 2 and 3 above are to be borne by the impacted landowner.
5. Where part of a significant tree overhangs a neighbouring property, it may constrain the development potential of the property.
6. All future affected neighbouring landowner(s), which have or are likely to have branches, canopy or roots of a significant tree(s) encroaching into their property, will be made aware of any significant tree which impacts their property. The City will advise future affected neighbouring landowner(s) of this when issuing a Certificate of Information Relating to Land in response to a land information enquiry.

Removal from Register

Subject to obtaining development approval from the City, a tree may be removed from the Significant Tree Register if:

1. The tree is dead;
2. The tree poses an unacceptable level of risk within its structure and remedial techniques cannot rectify it;
3. The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it; and/or

4. The tree is causing significant damage to infrastructure and/or the property, and suitable documented evidence is provided by a qualified arborist, at the expense of the applicant.

The following reasons will not be considered sufficient for removal:

1. Withdrawal of the support from the landowner (or new landowner).
2. To facilitate the placement of a permanent vehicle access crossing; unless it is to facilitate the placement of a permanent vehicle access crossing as a last resort, where there is no other viable option.

To remove a tree from the Significant Tree Register, landowners are required to provide an assessment from a qualified arborist detailing evidence and reasons why the tree should be removed from the Register. All associated costs are to be borne by the landowner.



Significant Tree Register for Private Land Policy

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Purpose

The purpose of this policy is to outline information, requirements and guidance in relation to:

- Including or removing a tree from the City of Bayswater Significant Tree Register on private land; and
- Removing, destructing, interfering and/or maintaining a tree on the City of Bayswater Significant Tree Register for Private Land.

Objectives

The objectives of this policy are:

1. To identify and recognise the importance of significant trees in the City of Bayswater to ensure an increased level of protection and care.
2. To ensure that the processing and assessment of significant trees is fair, accountable, consistent and comparable.
3. To assist with meeting the City's tree canopy target.
4. To encourage landowners, especially developers, to retain significant trees on their property.

Scope

This policy applies to existing or potential trees on private land that could be included on the City of Bayswater Significant Tree Register.

Introduction

The City of Bayswater has a number of trees that hold special aesthetic, social and cultural value to the community. Inclusion of these trees on the City of Bayswater Significant Tree Register acknowledges their value and can also provide them with statutory protection in accordance with the City of Bayswater *Town Planning Scheme No. 24* Schedule A - Supplemental Provisions to the Deemed Provisions to better ensure their ongoing conservation and care.

Requirements

1. Applications to include or remove a tree from the City of Bayswater Significant Tree Register are to be made in accordance with the City's Significant Tree Register Guidelines for Private Land.
2. Development approval is required prior to the removal, destruction, and/or interference with any tree included on the significant tree register. The proposed removal, destruction, interference and/or maintenance of a Significant Tree is to be undertaken in accordance with the City's Significant Tree Register Guidelines for Private Land.

Related Legislation

This policy is adopted under all Local Planning Schemes in force within the City of Bayswater, in accordance with Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

City of Bayswater Town Planning Scheme No. 24 Schedule A - Supplemental Provisions to the Deemed Provisions provides Significant Trees protection under Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Related Documentation

- City of Bayswater *Town Planning Scheme*.
- Urban Forest Strategy.
- Significant Tree Register for Private Land Guidelines.
- City of Bayswater Significant Tree Register for Private Land.

Document details

Relevant delegations	TP-D01		
Risk evaluation	Low		
Strategic link	Environment and Liveability Protect and enhance the City's natural environment and biodiversity, and encourage the community to participate in its protection.		
Council adoption	23 August 2022	Resolution	10.6.2.4
Reviewed/modified	September 2024	Resolution	[item no.]

Next review due	[date]
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Revised Policy



Significant Tree Register for Private Land Guidelines

Responsible Division	Office of the Chief Executive Officer
Responsible Business Unit	Property and Economic Development
Responsible Officer	Manager Property and Economic Development
Affected Business Units	Property and Economic Development Statutory Planning and Compliance Parks and Gardens
ECM Document Set ID	[ECM document set ID]

Introduction

These guidelines provide guidance including incentives for people wanting to include or remove a tree from the City of Bayswater Significant Tree Register on private land in accordance with the Significant Trees Register for Private Land Policy.

In addition, these guidelines provide information about the removal, destruction, interference and/or maintenance of a tree, which is registered on the City of Bayswater Significant Tree Register.

Nominations

1. The significant tree register application form is required to be filled out and signed.
2. Any person can apply for a Significant Tree(s) on private land for inclusion on the Significant Tree Register, provided all landowner(s) consent to the application.
3. Any person who nominates a tree and landowner(s) who consent will bear no cost for an application to the City to consider registering the tree.

Definitions

Tree Protection Zone (TPZ) – A protection zone that protects all parts of a tree from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Structural Root Zone (SRZ) – A protection zone that protects tree roots from accidental or wilful damage, as calculated by a qualified arborist based on the appropriate Australian Standards.

Suitably Qualified Arborist – An arborist that has a current and valid minimum qualification of an Australian Qualification Framework - Level 5 (Diploma) in Arboriculture.

Affected neighbouring landowner(s) – owners of properties that have branches, canopy, roots, or located within the TPZ, of a significant tree(s) encroaching into their property.

Significant Tree Assessment

1. Consent from the landowner(s) and any applicable strata body or similar is required prior to the City engaging a suitably qualified arborist to prepare the Significant Tree Assessment for inclusion on the Significant Tree Register.
2. Consent from the landowner(s) and any applicable strata body or similar can be provided by the nominee or be requested by the City.
3. If landowner(s) and any applicable strata body or similar consent has not been obtained, the City will not progress with the nomination.
4. Costs associated with the Significant Tree Assessment are to be borne by the City.
5. The applicant can provide the City a copy of a Significant Tree Assessment undertaken by a suitably qualified arborist and be reimbursed for the cost, up to a maximum of \$1,000.
6. The Significant Tree Assessment is to provide justification that the tree satisfies the Significant Tree Assessment Criteria.

Significant Tree Assessment Criteria

To be considered worthy of inclusion on the Significant Tree Register, trees must:

- Satisfy all the criteria from the General Category, to the satisfaction of the City; and
- Satisfy at least two different from the optional categories (Categories 1 to 5), to the satisfaction of the City.
- Where a tree only meets one criteria from one optional category, the City may consider the nomination on its merits.

The City will engage a suitably qualified arborist where required to prepare the Significant Tree Assessment.

Policy Statement

General Category
<p>The Significant Tree Assessment is to include:</p> <ol style="list-style-type: none">1. Address of the site containing the tree(s).2. Botanical name of the tree(s).3. Measurements of the tree(s), including: height, diameter at breast height (1.4m) and width of canopy.4. A Tree Risk Assessment using either the Quantified Tree Risk Assessment (QTRA) or Tree Risk Assessment Qualification (TRAQ) system, including distance to targets identified in the risk assessment such as buildings, sheds, etc. on both the subject site and neighbouring properties.5. Age classification of the tree(s).6. Observations of the tree(s) health and condition.7. Supporting photographs of the tree(s).

8. An aerial photograph showing the location of the tree(s).
9. Identification of a Tree Protection Zone and any affected properties.

Optional Category 1 – Growth/Size Significance

1. A tree(s) that is outstanding for its height or trunk circumference - 500mm diameter measured 1.4m above the ground and/or over 7m high.

Optional Category 2 – Outstanding Visual/Aesthetic Significance

1. A tree(s) that occurs in a prominent location or context;
2. A tree(s) that contributes significantly to the landscape in which it grows in comparison to other trees within a 100m radius - including streetscapes, parks, gardens or natural landscapes;
3. A tree(s) that exhibits an unusual growth form or physical feature; and/or
4. A tree(s) that is of a significant age - 100 years or older.

Optional Category 3 – Botanic/Scientific Significance

1. A tree(s) that is of an important genetic value that could provide important and valuable propagating stock. This could include specimens that are particularly resistant to disease or climatic extremes or have a particular growth form; and/or
2. A tree(s) that demonstrates a likelihood for producing information that will help the wider understanding of natural or cultural history by virtue of its use as a research site, teaching site, type locality or benchmark site.

Optional Category 4 – Significant Ecological Value

1. A priority, rare, threatened or locally uncommon species or ecological community;
2. An indigenous/endemic remnant tree(s) that predates the urban development in its immediate proximity;
3. A tree(s) that makes a significant contribution to the integrity of an ecological community, including its role as a seed source or specialised habitat;
4. A remnant endemic specimen(s) now reduced in range or abundance, which indicates the former extent of the species, particularly range limits;
5. A tree(s) that is part of a significant habitat element for rare, threatened, priority or locally uncommon or common native species; and/or
6. A tree(s) proximity to recognised ecological linkages or biodiversity corridors.

Optional Category 5 – Historical, Commemorative, Cultural or Social Significance

1. A tree(s) that is associated with public significance or important historical event for the City; and/or
2. A tree(s) that is highly valued by the community or cultural groups for reasons of strong religious, spiritual, cultural or other social associations, including trees associated with Aboriginal heritage and culture.

Tree Nomination Assessment and Decision Making Process

Stage 1

1. Applications will be checked to ensure that all the information has been provided.
2. Where applicable, the nominator will obtain landowner(s) and any relevant strata body or similar consent.
3. The City will undertake a Significant Tree Assessment using a qualified arborist, or the applicant may provide a copy Significant Tree Assessment undertaken by a qualified arborist.
4. Affected neighbours will be notified during the assessment process.
5. Further advice may be drawn upon from internal or external personnel as the need arises to ensure a thorough assessment is undertaken.

Stage 2

1. The City will make a decision on the tree's worthiness for inclusion on the Significant Tree Register based on the assessment criteria and qualified arborist assessment.
2. The nominee, landowner(s) and any affected neighbouring landowner(s) will be informed of the decision in writing.
3. If the landowner is dissatisfied by the decision, they can request for it to be referred to Council to make a decision.

Stage 3

1. Trees approved will be formally listed on the Significant Tree Register, which will include details about the tree, a photograph and a statement detailing its significance. The location of the other information will be included on the City's Geographic Information System.

Tree Maintenance Grants

Landowner(s) and /or affected neighbouring landowner(s) with a tree(s) registered on the significant tree register may be eligible to apply for a tree maintenance grant subject to the following.

1. Funding up to \$2,000 per property but not exceeding 50% of the total cost of the approved maintenance is available from the City, and is exclusive of any applicable GST.
2. Each property is entitled to one grant per five year period.
3. The application is for one or more of the following works:
 - Remedial pruning;

- Crown thinning;
 - Pest control or the like;
 - To seek the advice of a qualified arborist; or
 - For other works specified by a qualified arborist.
4. Payment will be in the form of reimbursement to the previously agreed amount upon presentation of proof of payment and certification by the arborist of approved works. The City may inspect and photograph trees before and after the approved works.

Incentives

The following incentives are applicable where a significant tree exists on private land:

1. Landowner(s) and affected neighbouring landowner(s) written planning advice and approval relating to significant tree(s) fees waived.
2. Landowner(s) development application fees waived for development on the property.
3. Landowner(s) can apply for a variation to the site cover and open space provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
4. Landowner(s) can apply a variation to the plot ratio provisions applicable to development on the site, as follows:
 - (a) Where one significant tree exists on the property a variation of 5% can be considered;
 - (b) Where two or more significant trees exist on the property a variation of 10% can be considered.
5. Landowner(s) can apply for a variation to building height of up to 2m.

Landowner(s) will be made aware of the incentives for retaining trees on private land at the demolition permit, subdivision application and development application stage. The City will recommend an advice note be placed on the subdivision determination where trees over 7m in height are located on the property.

What requires the City's Development Approval

1. Development approval from the City of Bayswater is required prior to the removal, destruction and/or interference with any tree included on the City's Significant Tree Register, this includes:
 - (a) The severing of branches, limbs, stems, trunk or roots of a tree that are greater than 50mm in diameter;
 - (b) Any excavation resulting in removal of roots greater than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ);
 - (c) Any excavation within the trees Structural Root Zone (SRZ) that requires the removal of any root;
 - (d) Pruning for aesthetic appearance; and/or
 - (e) Any other act that has the potential to cause damage to a tree, as determined by the City.

2. If a landowner(s) or neighbouring landowner(s) is in any doubt about what requires development approval, they are advised to liaise with the City prior to undertaking any pruning or other works.
3. Landowner(s) or neighbouring landowner(s) are advised to discuss with City officers what information is to be submitted with an application for development approval. Applications are to be accompanied by an assessment of the tree undertaken by a qualified arborist, with all associated costs being borne by the landowner(s) or relevant neighbouring landowner(s).
4. Approved works must be undertaken by a qualified arborist, to the satisfaction of the City.
5. Applications for removal, destruction and interference are to be supplemented with an suitably qualified Arboriculturist Report, including development of adjoining land.

What does not require the City's Development Approval

Pruning

Pruning of a significant tree is permitted to be undertaken by a qualified arborist (with all associated costs being borne by the landowner), without the need for development approval from the City, in the following circumstances:

1. The removal of dead wood or the treatment of disease where it is in the general interests of improving or maintaining the health of the tree;
2. Any excavation resulting in removal of roots less than 50mm in diameter within the trees calculated Tree Protection Zone (TPZ); and/or
3. Works required to maintain the legislated clearance requirements for utility services providers, such as Western Power or the Water Corporation.

It is noted that the severing of any branches, limbs, stems or roots of a tree that are less than 50mm in diameter do not require development approval or for the works to be undertaken by a qualified arborist.

Emergency Works

1. The following exemption for obtaining Development Approval prior to the removal of a significant tree apply:
 - (a) The removal is deemed as works that are urgently necessary for the safety of people and property, public safety, safety or security of plant or equipment, maintenance of essential services, or protection of the environment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 Part 7 Clause 61 (b) item 18.
2. Landowner(s) or neighbouring landowner(s) are required to notify the City in writing within five working days following the emergency work having been undertaken. Notification must include a report by the qualified arborist who carried out the work.

Implications and Responsibilities

Implications and Responsibilities for Landowners

Landowners are advised to think carefully before nominating or consenting to a tree for inclusion on the Significant Tree Register. A significant tree has the following implications for landowners:

1. Landowners are responsible for the ongoing health and maintenance of a significant tree within their property boundary. All associated costs are to be borne by the landowner.

2. All maintenance and other works are required to be undertaken by a qualified arborist. All associated costs are to be borne by the landowner.
3. While some works can be undertaken to a significant tree without development approval, landowners will need to apply for and obtain development approval to undertake certain works associated with a significant tree.
4. A significant tree has the potential to constrain the future development potential of the property.
5. A significant tree may only be removed from the Significant Tree Register under certain circumstances.
6. A significant tree will remain on the Significant Tree Register if/when land ownership changes.
7. A significant tree may impact insurance policies. Landowners are advised to check with their insurance provider in this regard.
8. All future landowner(s) will be made aware of any significant tree which impacts their property.

Implications and Responsibilities for Neighbouring Properties

The inclusion of a tree on the Significant Tree Register may have the following implications for neighbouring properties:

1. Neighbouring landowners are responsible for the ongoing health and maintenance of any part of a significant tree that overhangs their property up to the boundary line. All associated costs are to be borne by the impacted landowner.
2. Where part of a significant tree overhangs a neighbouring property, all maintenance and other works up to the property boundary is required to be undertaken by a qualified arborist. All associated costs are to be borne by the impacted landowner.
3. While some pruning and other works can be undertaken to a significant tree without development written approval, neighbouring landowners will need to apply for and obtain development written approval to undertake certain works associated with any part of a significant tree that overhangs their property up to the boundary line.
4. All associated costs relating to clause 1, 2 and 3 above are to be borne by the impacted landowner.
5. Where part of a significant tree overhangs a neighbouring property, it may constrain the development potential of the property.
6. All future affected neighbouring landowner(s), which have or are likely to have branches, canopy or roots of a significant tree(s) encroaching into their property, will be made aware of any significant tree which impacts their property. The City will advise future affected neighbouring landowner(s) of this when issuing a Certificate of Information Relating to Land in response to a land information enquiry.

Removal from Register

Subject to obtaining development approval from the City, a tree may be removed from the Significant Tree Register if:

1. The tree is dead;
2. The tree poses an unacceptable level of risk within its structure and remedial techniques cannot rectify it;
3. The tree is suffering from a disease where remedial techniques will not prevent further spread of the disease, and the removal will be of benefit to other trees around it; and/or

4. The tree is causing significant damage to infrastructure and/or the property, and suitable documented evidence is provided by a qualified arborist, at the expense of the applicant.

The following reasons will not be considered sufficient for removal:

1. Withdrawal of the support from the landowner (or new landowner).
2. To facilitate the placement of a permanent vehicle access crossing; unless it is to facilitate the placement of a permanent vehicle access crossing as a last resort, where there is no other viable option.

To remove a tree from the Significant Tree Register, landowners are required to provide an assessment from a qualified arborist detailing evidence and reasons why the tree should be removed from the Register. All associated costs are to be borne by the landowner.

Outcomes of the community consultation survey table: Significant Trees Register Policy and Associated Guidelines			
Question 1: Do you support the objectives of the Significant Tree Register Policy?			
1. Do not support objectives	61 submissions 15 comments	City comments	Modifications
Government overreach	Tally: 7		
<ul style="list-style-type: none"> Government overreach Loss of autonomy and property rights Liability issues for the City 		<p>WALGA within its Local Government Approaches to Tree Retention report discusses the importance and responsibilities of tree retention:</p> <p><i>Trees and other vegetation in urban areas provide significant social, economic, and environmental benefits to the community. The retention and growth of a healthy, resilient and diverse urban canopy is a shared responsibility across State and Local Governments, landowners, industry and the community. In most urban areas across Western Australia there has been a decline in canopy cover, particularly on private land. This loss of cover is a significant issue for Local Governments and impacts local biodiversity, visual amenity, urban heat and public health.</i></p> <p>With consideration of the comments received and noting WALGA's research, tree retention is of high importance for the community and environment.</p>	No modifications to the policy objectives recommended.

		Tree canopy on private property that was reported to Council has declined over the last 4 years. The policy objectives seek to assist with meeting the City's tree canopy target.	
Penalises private land owners	Tally: 7		
<ul style="list-style-type: none"> Restricting redevelopment Increased financial burden through ongoing maintenance costs, Council resourcing resulting in rate increases Potential negative impact on property values Potential for property damage Unfair that other people can nominate a tree on your private property Liability concerns where trees cause nuisance 		Landowner consent is required for a tree to be nominated, as specified in TPS 24. The policy allows for anyone to nominate a tree, however landowner consent is required before it can be assessed. It is considered that where a landowner is concerned that they would be unduly penalised by having a tree on the register, it is unlikely that their consent would be forthcoming.	<p>No modifications to the policy objectives recommended.</p> <p>Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.</p>
Penalises neighbouring property owners	Tally: 6		
<ul style="list-style-type: none"> Potential for property damage from roots and branches if unable to prune. Potential to escalate neighbour disputes. 		The policy allows for a degree of pruning and emergency works to be undertaken, and in the event that additional works are required then an application can be made for more extensive maintenance. Maintenance grants are available to the landowners of the property containing the tree and to adjoining affected landowners.	<p>No modifications to the policy objectives recommended.</p> <p>Modify guidelines to waive fees for neighbouring landowners for approval relating to significant trees.</p>
Encourages pre-emptive removal	Tally: 2		
<ul style="list-style-type: none"> Possibly remove trees on private property so they can't be nominated on the register Potential trees will not be planted in the first place in case they become eligible for the register in the future. 		As consent of the landowner is required for nomination it is considered unlikely that trees eligible for the register would be pre-emptively removed or not planted.	<p>No modifications to the policy objectives recommended.</p> <p>Modify the guidelines to clarify that landowner</p>

			consent is required for nomination of a tree on the register, to remove ambiguity.
Policy needs revision	Tally: 5		
<ul style="list-style-type: none"> • Ensure landowner and neighbouring landowner rights are protected. • Criteria for significant trees needs to be more thorough • Policy doesn't go far enough, as it doesn't encourage or incentives planning, such as amalgamation and additional height exemptions to allow more space for trees, a more wholistic approach is required with more incentives. 		<p>Landowner consent is required for a tree to be nominated. Neighbouring affected landowners will be consulted during the assessment stage.</p> <p>It is considered the City is aiming for a wholistic approach to increasing tree canopy, and is developing a framework to encourage retention and planting of new trees.</p>	<p>No modifications to the policy objectives recommended.</p> <p>Modify guidelines to include:</p> <ul style="list-style-type: none"> • Clarification that landowner consent is required for nomination. • Include definition of affected adjoining landowner, to assist with assessing impact.
*n=X means % calculated as the proportion of people who provided reasons for not supporting the policy objectives. A total of X reasons was given by X people.)			
1. Partially support objectives	20 submissions 16 comments	City comments	Modifications
Policy needs revision	Tally: 18		
<ul style="list-style-type: none"> • Landowner, and neighbouring landowner consent should be required. • Importance of significant tree is diminished and needs more definition • Modifications are inconsistent with the objectives • Policy should incentivise planting • Don't support paying for maintenance / damage 		<p>Landowner consent is required for a tree to be nominated. Neighbouring affected landowners will be consulted during the assessment stage.</p> <p>Reinstatement of the two category criteria is proposed to be included into the guidelines.</p>	<p>No modifications to the policy objectives recommended.</p> <p>Proposed modifications to the guidelines:</p> <ul style="list-style-type: none"> • Clarification that landowner consent is required for nomination.

<ul style="list-style-type: none"> Significant trees should be automatically registered Weeds should not be allowed to be registered 		<p>It is considered the City is aiming for a wholistic approach to increasing tree canopy, and is developing a framework to encourage retention and planting of new trees. Automatically including a tree on the register has not been a consideration as TPS 24, it is appropriate that the landowner consent is required.</p> <p>It is unlikely that a weed would be classified as Significant by an arboriculturist, however in the event that a weed was nominated, this would be taken into account in its assessment.</p>	<ul style="list-style-type: none"> Include definition of affected adjoining landowner, to assist with assessing impact. Require two category criteria to be met, however allow for a single category to be assessed on its merits.
1. Support the objectives	65 submissions 34 comments	City comments	Modifications
Importance of mature trees	Tally: 25		
<ul style="list-style-type: none"> Canopy protection Microclimate / biodiversity/ ecology / wildlife habitat Shade an amenity Personal health and well being 		Noted. The modifications to the policy and guidelines seek to encourage more trees are included on the register and are protected under TPS 24.	No modifications to the policy objectives recommended.
Policy protects trees	Tally: 6		
<ul style="list-style-type: none"> Promotes protecting trees from the impacts of development. Policy makes it easier to register, works to encourage retention and educate people 		Noted.	No modifications to the policy objectives recommended.
Policy needs revision	Tally: 9		
<ul style="list-style-type: none"> Policy should do more to incentivise Policy diminishes the term significant Weeds should not be considered 		Incentivising through waiving fees and allowance for variations for development requirements is considered appropriate	No modifications to the policy objectives recommended.

<ul style="list-style-type: none">• Neighbours should be consulted• Wholistic approach required		<p>mechanism to encourage registration of significant trees.</p> <p>It is proposed to reinstate requirement to criteria from two optional categories.in the event that a weed is nominated for the register this will be taken into account at the assessment stage.</p> <p>Affected neighbouring landowners are proposed to be consulted, and this is retained as a provision in the policy.</p> <p>It is considered the City is aiming for a wholistic approach to increasing tree canopy, and is developing a framework to encourage retention and planting of new trees.</p>	<p>Proposed modifications to the guidelines:</p> <ul style="list-style-type: none">• Include definition of affected adjoining landowner, to assist with assessing impact.• Require two category criteria to be met, however allow for a single category to be assessed on its merits.
Question 2: Do you support the amendment that a tree should be eligible for the register if it meets only one criterion from the guidelines?			
2. No	96 submissions 48 comments	City comments	Modifications
Government Overreach ^{TA34}	Tally: 7		
<ul style="list-style-type: none">• Government overreach which results in a loss of autonomy / property rights		Tree canopy on private property has declined over the last 4 years. The significant tree register seeks to assist with meeting the City's tree canopy target.	No modifications to the policy or guidelines recommended.
Penalises property owners	Tally: 7		
<ul style="list-style-type: none">• Increases financial burden on landowners• Stifles development, impacts on subdivision potential		Landowner consent is required for a tree to be nominated, as specified in TPS 24. The policy allows for anyone to nominate a tree, however	Modify the guidelines to clarify that landowner consent is required for

<ul style="list-style-type: none"> Negative impact on property owners Unfair someone can nominate a tree on your private property Liability if tree causes damage 		landowner consent is required before it can be assessed. It is considered that where a landowner is concerned that they would be unduly penalised by having a tree on the register, it is unlikely that their consent would be forthcoming.	nomination of a tree on the register, to remove ambiguity.
Penalises neighbouring property owners	Tally: 7		
<ul style="list-style-type: none"> Increased financial burden, paying for damage and maintenance Potential impact on property values Potential for property damage Potential to escalate neighbour disputes 		The policy allows for a degree of pruning and emergency works to be undertaken, and in the event that additional works are required then an application can be made for more extensive maintenance. Maintenance grants are available to the landowners of the property containing the tree and to adjoining affected landowners.	Modify guidelines to waive fees for neighbouring landowners for approval relating to significant trees.
Policy needs revision	6		
<ul style="list-style-type: none"> Property owners need to be protected as anyone could nominate if there are less criteria Criteria needs to be more thorough as it is too vague and ambiguous Doesn't give any guidance to "location" 		<p>Landowner consent is required for a tree to be nominated.</p> <p>It is proposed to revert to two category criteria to ensure any tree on the register is significant.</p>	<p>Modify guidelines to include:</p> <ul style="list-style-type: none"> Clarification that landowner consent is required for nomination. Revert to criteria from two optional categories, with option for one to be assessed on its merits.
Criteria too easy	Tally: 30		
<ul style="list-style-type: none"> Should be two categories Diminishes the term significance 		It is proposed to revert to two category criteria to ensure any tree on the register is significant.	Modify guidelines to include:

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<ul style="list-style-type: none"> Criteria is too broad, it could be any tree which might not be significant 			<ul style="list-style-type: none"> Revert to criteria from two optional categories, with option for one to be assessed on its merits.
Financial impacts	Tally: 8		
<ul style="list-style-type: none"> Ratepayers becoming responsible for trees on other peoples private property through maintenance grants, fee waivers, City resourcing. 		Trees included on the significant tree register would in effect be similar to heritage listed properties that can be eligible for maintenance grants, which is preserving heritage (and trees) for future generations.	No modifications recommended
2. Not sure	5 Submissions 1 comments	City comments	Modifications
Future consequences	Tally: 1		
Depends on whether choices on private land will be restricted in the future		Landowner consent is required for a tree to be nominated, as specified in TPS 24. The policy allows for anyone to nominate a tree, however landowner consent is required before it can be assessed. It is considered that where a landowner is concerned that there would be consequences in the future by having a tree on the register, it is unlikely that their consent would be forthcoming.	Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.
2. Yes	44 submissions 14 comments	City comments	Modifications
<ul style="list-style-type: none"> Importance of Trees 	Tally: 3		
<ul style="list-style-type: none"> Microclimate / biodiversity/ ecology / wildlife habitat 		Noted	No modifications recommended.

Modified policy makes it less restrictive to register	Tally: 9		
<ul style="list-style-type: none"> Easier to register Could make it even easier, should be registered by default 		Noted. The intent of the modifications to the policy was to make it easier to nominate a tree for the register.	It is considered that the modifications proposed in response to some concerns will still ensure that nominating a tree is less restrictive than the previous version of the policy.
Question 3 Do you support the amendment that adjoining landowners no longer need to be consulted when a tree is nominated to be entered on the Significant Tree Register?			
3. No	103 Submissions 57 comments	City comments	Modifications
Penalises neighbouring property owners	Tally 43		
<ul style="list-style-type: none"> If impacted should consult and require consent Increased financial burden from a tree on another property, via DA fees, maintenance Impinging on property rights, neighbour might not understand implications Adversely impact property values from restrictions and maintenance Potential for property damage from branches and roots, maintenance, nuisance Liability and safety Potential to escalate neighbour disputes 		The modified policy proposes that consultation will occur during the assessment process. All nominations will be assessed on their merits.	Consultation will occur with affected neighbouring properties at assessment stage. Modify guidelines to include definition of affected neighbouring landowner to ensure impacts can be assessed.
Not consistent with community engagement policy	Tally: 14		



<ul style="list-style-type: none"> • Consultation is undertaken out of respect and inclusiveness • Principle of engagement that all parties are consulted • Should have right to consult but not veto 		The modified policy proposes that consultation will occur during the assessment process. All nominations will be assessed on their merits.	Consultation will occur with affected neighbouring properties at assessment stage
Policy needs revision	Tally: 2		
<ul style="list-style-type: none"> • Neighbours rights need to be protected • Too vague 		The modified policy proposes that consultation will occur during the assessment process. All nominations will be assessed on their merits.	Consultation will occur with affected neighbouring properties at assessment stage
Government overreach	Tally: 2		
<ul style="list-style-type: none"> • Government impinging on private property owners rights 		Landowner consent is required for a tree to be nominated, as specified in TPS 24. Affected adjoining landowners will be consulted during the assessment process.	Consultation will occur with affected neighbouring properties at assessment stage. Modify guidelines to include definition of affected neighbouring landowner to ensure impacts can be assessed
Penalises property owners	Tally: 2		
<ul style="list-style-type: none"> • Stifles development • Impinges on owner rights 		Landowner consent is required for a tree to be nominated, as specified in TPS 24. Affected adjoining landowners will be consulted during the assessment process.	Consultation will occur with affected neighbouring properties at assessment stage. Modify guidelines to include definition of affected neighbouring landowner to ensure impacts can be assessed



3. Not sure	5 submissions 3 comments	City comments	Modifications
Impact on adjoining property owners	3		
<ul style="list-style-type: none"> Depends on the impact on the neighbour City should be responsible for neighbour costs 		<p>Affected adjoining landowners will be consulted during the assessment process.</p> <p>Affected adjoining landowners are eligible for maintenance grants. It is proposed to include fee waver for approvals for maintenance for significant trees in the guidelines.</p>	Modify guidelines to waive fees for neighbouring landowners for approval relating to significant trees.
3. Yes	36 submissions 11 comments	City comments	Modifications
Mature trees are important	Tally: 2		
<ul style="list-style-type: none"> Protection of trees goes beyond landowners and neighbours. Responsibility to protect existing tree canopy. 		Noted	No modifications recommended.
Policy is less restrictive	Tally: 9		
<ul style="list-style-type: none"> Consultation but not consent should be required Not up to the neighbour, as the adjoining landowner does not own the tree Reduces roadblocks Removes ability for those who consider trees a nuisance to veto 		Noted. Removal of affected neighbour consent will open up more opportunities for nomination. Neighbour consultation to those affected is specified in the guidelines.	Modify guidelines to include definition of affected neighbouring landowner
Question 4: Do you support the draft Significant Tree Register Policy and Guidelines?			

4. I do not support the draft Policy and Guidelines.	91 submissions 43 comments	City comments	Modifications
Government Overreach	Tally: 18		
<ul style="list-style-type: none"> Government overreach resulting in a loss of autonomy and private land rights Impinges on common law, where a neighbouring landowner is impacted by roots and branches overhanging Misleading information regarding tree canopy, modelling should be undertaken to demonstrate what the future tree canopy will be given current efforts around tree planting Should focus on planting on public land in Council control 		<p>Tree canopy on private property has declined over the last 4 years. The significant tree register seeks to assist with meeting the City's tree canopy target.</p> <p>Maintenance and pruning is still possible for significant trees on the register, however will require approval for works that are not exempted by the guidelines.</p> <p>The City has undertaken extensive planting in an effort to reach tree canopy targets. The significant tree register being expanded to include private land is part of a wholistic effort to increase tree canopy.</p>	No modifications recommended.
Stifles development	Tally: 5		
<ul style="list-style-type: none"> Trees could prevent redevelopment opportunities, impact on provision of housing Does not align with state policy of addressing housing crisis. 		<p>As consent of the landowner is required for nomination it is considered unlikely that trees would be nominated where a landowner has concerns the tree would negatively impact on future development.</p>	Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.
Penalises property owners	Tally: 14		
<ul style="list-style-type: none"> Intrusion into private property rights, nominator should not be able to request consideration by Council if they are dissatisfied with the decision for inclusion on the register. Increased financial burden through maintenance, rate increases through the City having to resource 		<p>Landowner consent is required for a tree to be nominated, as specified in TPS 24. The policy allows for anyone to nominate a tree, however landowner consent is required before it can be assessed. It is considered that where a landowner is concerned that they would be unduly penalised by having a tree on the register, it is unlikely that their consent would be forthcoming.</p>	<p>Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.</p> <p>Remove reference to nominee being able to</p>

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<ul style="list-style-type: none"> Potential for property damage Unfair other people can nominate a tree on your property 			request referral to Council, change to landowner.
Penalises neighbouring property owners	Tally: 15		
<ul style="list-style-type: none"> Consultation with neighbouring property owners should be required. Increased financial burden through maintenance Potential for property damage Potential to escalate neighbour disputes 		The modified policy proposes that consultation will occur during the assessment process. All nominations will be assessed on their merits. The guidelines provide for maintenance grants for affected neighbouring landowners.	<p>Consultation will occur with affected neighbouring properties at assessment stage.</p> <p>Modify guidelines to include definition of affected neighbouring landowner to ensure impacts can be assessed.</p>
Policy needs revision	Tally: 48		
<ul style="list-style-type: none"> Policy doesn't go far enough to incentivise planting, encourage retention, needs a wholistic approach to protect significant trees through other mechanisms. Landowner and neighbouring landowner consent and consultation should be required. Landowner and neighbour's rights should be protected. Policy is too vague and unclear, lack of criteria diminishes significant trees Weeds should be exempted from the register 		<p>The policy and guidelines are part of the City's overall efforts to increase tree canopy throughout the City on both private and public land.</p> <p>Landowner consent is a requirement of TPS 24. Neighbour consent to nominate has been modified to consultation during assessment to make it less restrictive to nominate a tree on private property.</p> <p>In order to maintain the integrity of the Significant Tree register it is proposed to reinstate the requirement for criteria from two categories, however provide the ability to consider a nomination from a single criteria on its merits.</p>	<p>Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.</p> <p>Modify guidelines to reintroduce two criteria for nomination.</p>

		In the event that a weed species is nominated this would be taken into account during the assessment for inclusion on the register.	
Encourages Pre-emptive clearing	Tally: 7		
<ul style="list-style-type: none"> Trees on private property could be pre-emptively removed to prevent restrictions on future development and ongoing maintenance issues. 		As consent of the landowner is required for nomination it is considered unlikely that trees eligible for the register would be pre-emptively removed.	Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.
Poor community engagement	Tally: 2		
<ul style="list-style-type: none"> Adequate advertising was not undertaken Lack of transparency 		Public consultation was undertaken in accordance with the provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015 and the City community engagement policy</i>	No modifications required
Policy doesn't need modification	Tally: 2		
<ul style="list-style-type: none"> Policy is ok, the reason there have been limited nominations is because landowners do not want to nominate. 		The revised policy makes it less restrictive to nominate a tree so there may be more opportunities for landowners to request their tree be included on the register.	Modifications to less restrictive criteria, and change from neighbour consent to consultation
4. I partially support the draft Policy and Guidelines	14 submissions 13 comments	City comments	
Policy needs revision	Tally: 15		
<ul style="list-style-type: none"> Neighbour agreement and consultation should be required. Neighbour agreement should not be required Policy is too vague and ambiguous, diminishes the term significant tree Include incentives for affected neighbouring landowners 		<p>Neighbour agreement to nomination is not proposed in the amended policy, however consultation with affected landowners is required. It is proposed to include a specific definition in the policy for affected landowners to assist in determining the impact on adjoining landowners.</p> <p>It is proposed to revert to requiring criteria from two optional categories, with allowance for</p>	<p>Modify guidelines to include:</p> <ul style="list-style-type: none"> Definition of affected landowner Revert to criteria from two optional categories, with option for one to be assessed on its merits.

<ul style="list-style-type: none"> Inclusion on the register should be mandatory 		<p>nominations from a single category to be assessed on its merits.</p> <p>It is also proposed to include incentives for adjoining landowners to have fees waived for works relating to significant trees on the register.</p> <p>As per the requirements of TPS 24 the consent of the landowner is required for nomination, therefore inclusion on the register cannot be mandated.</p>	<ul style="list-style-type: none"> Fees waived for neighbouring affected landowners.
Encourages pre-emptive clearing	Tally: 2		
<ul style="list-style-type: none"> Trees on private property could be pre-emptively removed to prevent restrictions on future development and ongoing maintenance issues. 		As consent of the landowner is required for nomination it is considered unlikely that trees eligible for the register would be pre-emptively removed.	Modify the guidelines to clarify that landowner consent is required for nomination of a tree on the register, to remove ambiguity.
Penalises property owners	Tally: 1		
<ul style="list-style-type: none"> Increased financial burden Should be the landowner's decision 		As per the requirements of TPS 24 the consent of the landowner is required for nomination, therefore it is the landowner's choice whether to nominate a tree for the register. A range of financial incentives are included in the guidelines, including maintenance grants, covering cost of arborist reports, waiving fees and development incentives.	No modifications proposed.
4. I support the draft Policy and Guidelines	38 submissions 7 comments	City comments	
Importance of mature trees	Tally: 3		
<ul style="list-style-type: none"> Will assist to protect tree canopy Assists in protecting trees from housing development 		Noted.	No modifications recommended.
Policy is less restrictive	Tally: 4		



<ul style="list-style-type: none">• Modifications to policy make it easier to nominate a tree for the register, resulting in protection of more trees	Noted. The intent of the modifications to the policy was to make it easier to nominate a tree for the register.	It is considered that the modifications proposed in response to some concerns will still ensure that nominating a tree is less restrictive than the previous version of the policy.
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9.5 New Policy: Election Signs

Responsible Branch:	Governance and Strategy
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Legislative
Voting Requirement:	Simple Majority
Attachments:	1. Draft Election Signage Policy [9.5.1 - 5 pages]

SUMMARY

For Council to consider and adopt the new *Election Signs Policy*.

OFFICER'S RECOMMENDATION

That Council adopts the *Election Signs Policy* as contained in Attachment 1 to this report.

BACKGROUND

During election periods, City officers deal with numerous enquiries relating to election signs. These enquiries come from both candidates and members of the public and generally relate to the requirements around the placement of election signs, or the enforcement of these requirements.

Election signs are regulated through various legislative mechanisms, including Acts, Regulations, Planning Schemes, Planning Policies and Local Laws, and it can be difficult for candidates and members of the public to navigate.

In 2015, the City of Bayswater Council considered the matter of political signage at its Ordinary Council Meeting held 25 August 2015 and resolved as follows:

"That Council:

- 1. Exempts political signage on private land from the requirement to obtain approval to erect the signage during the defined election period (no more than 28 days prior to the election with signage to be removed within 24 hours after the election to which it relates), provided that the signage (size, location, illumination and fixing) complies with the other requirements of City's Town Planning Scheme No.24 and Signage Policy TP5.2.*
- 2. Requires tenants and lessees to seek prior approval from the City to erect political advertising and signage on land under the care, control and management of the City.*
- 3. Approves the removal of the restriction in regard to political signage placed on the contracts for bus shelter advertising and authorises relevant correspondence to be sent to the lessees."*

A copy of this resolution, along with a series of frequently asked questions has been available on the City's website since this time.

This information is now out of date and requires revision.

EXTERNAL CONSULTATION

No consultation has occurred with the public or other agencies on this matter. However, City officers have reviewed election sign policies in place for other local governments, and the 'WALGA Political Signage Guideline' in preparing this report.

OFFICER'S COMMENTS

In addition to the legislative requirements set out in primary legislation, election signs are regulated by the City through two key provisions:

- *Schedule 2 – Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations); and
- The City of Bayswater *Activities in Thoroughfares and Public Places and Trading Local Law 2020* (the Local Law).

The City of Bayswater Town Planning Scheme No. 24 (TPS 24) and Signage Local Planning Policy do not require development approval for election signage as Clause 61(1), Item 9 of the Deemed Provisions within the Regulations covers the exemption requirements for election signage, subject to a series of conditions.

The Local Law establishes the requirements for advertising signs placed on thoroughfares, including the requirements for election signs.

To make things easier for candidates and members of the public to understand these requirements, City officers recommend the establishment of an Election Signs Policy that sets out the Council's position on election signs, during an election period.

A copy of the draft *Election Signs Policy* is contained in **Attachment 1**.

The table below provides a synopsis of the key features in the draft *Election Signs Policy*:

Provision	Rationale
Scope	<p>The policy only applies to election signs during Federal, State and Local Government election periods.</p> <p>The policy does not apply to signs that are not election signs or signs displayed outside of the election period.</p>
Definitions	Election periods, Election signs and Thoroughfares are defined.
Principles	<p>The principle of implied freedom of political communications are included in the policy.</p> <p>Restrictions on political signs are no more onerous than for other signs, and approval of election signs is not required during an election period if the standards set out in the policy are met.</p>
Functions	<p>The policy covers:</p> <ul style="list-style-type: none"> • Signs on private land • Signs on thoroughfares • Signs on Council owned or managed land • Signs at polling stations • Signs on State Road Reserves

Provision	Rationale
	<ul style="list-style-type: none"> Electoral requirements
Complaints and Enforcement	<p>The policy establishes a complaint process and sets out how the policy will be enforced.</p> <p>In general, the City will give priority to complaints about signs that pose a health or safety risk.</p>

LEGISLATIVE COMPLIANCE

Commonwealth of Australia Constitution Act

Constitution Act (WA)

Electoral Act 1918 (Commonwealth)

Main Roads Act 1930

Local Government Act 1995

Electoral Act 1907

Local Government (Elections) Regulations 1997

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

City of Bayswater Activities in Thoroughfares and Public Places and Trading Local Law 2020

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the officer's recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Medium	Low
Reputation and Stakeholders	Medium	Medium
Service Delivery	Medium	Low
Environment	Low	Low
Governance and Compliance	Low	Medium
Strategic Risk	SR07 - Unethical or inadequate governance and/or decision-making.	

FINANCIAL IMPLICATIONS

There are no financial implications associated with the adoption of this policy.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

Theme: Leadership and Governance

Goal L1: Engage the community in a meaningful way.
Provide opportunities for the community to have their say and consider their views

when making decisions.

CONCLUSION

That the Committee endorses the proposed *Election Signs Policy*, as contained in **Attachment 1**, for submission to Council for consideration.



Election Signs Policy

Responsible Division	Office of the CEO
Responsible Business Unit	Governance and Strategy
Responsible Officer	Manager, Governance and Strategy
Affected Business Units	Rangers and Security Statutory Planning and Compliance
ECM Document Set ID	[ECM document set ID]

Purpose

1. This policy sets out the requirements for election signs displayed during Federal, State and Local Government elections.

Scope

2. This policy applies to an election sign displayed during Federal, State and Local Government election periods on private property and on property under the care, control and management of the City.
3. This policy does not apply to signs that are not election signs, or signs that may be displayed outside of the election period.

Definitions

For the purpose of this policy —

Election period means from the issue of the writs (for State and Federal elections) or from the close of nominations day (for Local Government elections) up until 48 hours after the election day.

Election sign means an advertising sign or poster, which advertises any aspect of a forthcoming Federal, State or Local Government election or referendum.

Thoroughfare means the whole road reservation, including the verge and the carriageway (the part of the road primarily used for vehicular traffic).

Policy Statement

4. This policy is based on the decisions of the High Court of Australia and the Supreme Court of Western Australia which protect the display of election signs that exercise the implied freedom of political communication within the Australian Constitution.
5. The City will apply reasonable restrictions on election signs that are no more onerous than on a comparable sign that has no political connection.
6. The responsibility for complying with election sign requirements is that of the candidate, even if someone else erects or places a sign on their behalf.

Signs on private land

7. During an Election Period, election signs may be placed on private property, without approval from the City, provided that the signs:
- Have the consent of the property owner;
 - Do not pose a health or safety risk;
 - Are temporary in nature and displayed only during the election period; and
 - Meet the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, including that the signs not be erected within 1.5m of any part of a crossover or street intersection.

Signs on thoroughfares

8. During an Election Period, election signs may be placed on thoroughfares, without approval from the City, provided that the signs:
- Be erected at least 30 m from any intersection;
 - Be free standing and not affixed to any existing sign, post, power or light pole, or similar structure;
 - Be placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
 - Be placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
 - Be maintained in good condition;
 - Be erected during the election period (i.e. not prior to the commencement of the election period);
 - Be removed within 48 hours of the close of polls on voting day;
 - Be at least 100 m away from any works on a thoroughfare;
 - Be securely installed;
 - Not be an illuminated sign;
 - Not incorporate reflective or fluorescent materials;
 - Not display only part of a message which is to be read with other separate signs in order to obtain the whole message; and
 - Not be within 30 m of another election sign promoting the same candidate.

Signs on Council owned or managed land

9. Election signs are not permitted on any other Council owned or managed land (other than thoroughfares in accordance with clause 8). This includes City occupied facilities, City leased facilities, and City parks and reserves.

Signs at election polling stations

10. The placement of election signs at a polling place must comply with the relevant legislation and any instructions of the Returning Officer, or any other person in charge of the polling place.
11. The City will not remove election signs on City land or facilities that are used as a polling place on the day of an election. That is, an election sign may be displayed on land or facilities owned or controlled by the City that is used as a polling place on the day of an election.

State Road Reserves

12. Candidates who wish to place an election sign on a State road reserve will need to follow the requirements of Main Roads Western Australia.

Electoral requirements

13. Election signs must comply with the requirements of the *Local Government Act 1995* and the *Electoral Act 1907 (WA)* and ensure that the name and address of the person authorising the sign and the relevant name and address of the printer is on the sign. Similar provisions apply in relation to State and Federal elections.
14. Any breaches of these requirements will be referred to the relevant Returning Officer.
15. The use of the City's logo or crest on an election sign is not permitted.

Complaints and Enforcement

16. Where an election sign is non-compliant with this policy or the *City of Bayswater Activities in Thoroughfares and Public Places and Trading Local Law 2020*, the City may take enforcement action. This may include:
 - Issuing a caution
 - Requesting the sign be moved or altered;
 - Impounding or confiscating the sign; and/or
 - Issuing an infringement or prosecution.
17. In exercising this power, the City will adopt the following approach:
 - Complaints must be made in writing to the Manager, Rangers and Security by a resident or ratepayer of the City of Bayswater. Complaints may not be lodged by Elected Members, candidates or their immediate family members.

- In response to a valid complaint, the City will give the candidate 24 hours' notice of the non-conforming sign, after which time it may be impounded, and made available for collection by the candidate or their nominee;
- The City will give priority to complaints that, in the opinion of a City officer, involve an election sign that poses a health or safety hazard;
- Where an election sign poses a health or safety hazard, it may be removed without notice;
- A candidate may appeal a City Officer determination through the Office of the CEO.

Removal of signs following elections

18. Signs that are not removed within 48 hours after the election period ends may be impounded. The candidate will be given an opportunity to collect them within 10 working days or they may be destroyed without further warning.

Related Legislation

Commonwealth of Australia Constitution Act

Constitution Act (WA)

Electoral Act 1918 (Commonwealth)

Main Roads Act 1930

Local Government Act 1995

Electoral Act 1907

Local Government (Elections) Regulations 1997

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

City of Bayswater Activities in Thoroughfares and Public Places and Trading Local Law 2020

Related Documentation

Town Planning Scheme No.24

City of Bayswater Signage Policy

Document details

Relevant delegations	LL-D01 Local Laws – General Administration		
Risk evaluation	Low		
Strategic link	Leadership and Governance		
Council adoption	[date]	Resolution	[item no.]
Next review due	February 2027		



Election Signage Policy

Reviewed/modified	N/A	Resolution	N/A
Revision details	N/A		

draft

9.6 New Policy: Mayoral Vehicle

Responsible Branch:	Governance and Strategy
Responsible Directorate:	Office of the CEO
Authority/Discretion:	Legislative
Voting Requirement:	Simple Majority
Attachments:	<ol style="list-style-type: none"> 1. Benchmarking - Band One Local Governments [9.6.1 - 3 pages] 2. Draft Mayoral Vehicle Policy [9.6.2 - 3 pages]

SUMMARY

This item seeks Council consideration of the provision of a fully maintained City vehicle for use by the Mayor and includes a draft policy that sets out the parameters of that use.

OFFICER'S RECOMMENDATION

That Council adopts the new *Mayoral Vehicle Policy* as contained in Attachment 2.

BACKGROUND

The Mayor has requested that City Officers investigate the appropriateness and the associated costs of the provision of a City vehicle for undertaking official and civic duties on behalf of the City of Bayswater.

EXTERNAL CONSULTATION

The City has undertaken a desktop review of similar policies at other local governments (Attachment 1 refers). This review has identified that 20 of the 23 Band One local governments in Western Australia currently provide a vehicle for use by their Mayor.

In most cases where a Band One local government provides a vehicle for use by the Mayor for official and civic duties, the vehicle is also allowed to be used for private use on the basis that the costs of private use are reimbursed to the City.

OFFICER'S COMMENTS

The Mayor, in carrying out the duties and responsibilities set out in the *Local Government Act 1995*, is required to attend a variety of functions across the City of Bayswater, and the metropolitan area. To fulfil their civic duties, they need to have access to a fit-for-purpose vehicle to support them to effectively, efficiently and safely carry out these duties.

The City currently has in place an *Elected Members Entitlements Policy* which sets out the entitlements of Elected Members as determined under the *Local Government Act 1995* and the Salaries and Allowances Tribunal Determination for Local Government CEOs and Elected Members. This policy includes provision for the reimbursement of expenses (including travel expenses) but does not include the provision of a vehicle for use by the Mayor.

Whilst the Salaries and Allowances Tribunal Determination for Local Government CEOs and Elected Members provides for mileage claims to be reimbursed, this does not take into consideration the efficiency, safety or suitability of the vehicle used to carry out the duties of the Mayor.

The *Local Government (Administration) Regulations 1996*, allow for the provision of a vehicle owned by a local government for use by the Mayor as an alternate method of payment of expenses for which a person can be reimbursed (Regulation 34AD refers).

City officers consider that the provision of a vehicle to the Mayor would have the following advantages:

- The Mayor would have a suitable vehicle to transport themselves to civic events, functions and meetings, that meets the safety and environmental standards of the City.
- Those considering nominating for the position of Mayor would not be disadvantaged or deterred from nominating on the basis that they may not have access to a vehicle that is fit for purpose.
- The vehicle would contribute positively to the environmental standards set by the City for its fleet vehicles.
- The provision of a vehicle for use by the Mayor removes the need for the Mayor to submit mileage reimbursement claims for use of their own vehicle and would result in a decrease in the administration required to process these reimbursements.

City officers have prepared a new policy allowing for the provision of a vehicle for the Mayor that establishes the broad parameters for use of that vehicle. Key components of the new policy are:

- A fully maintained City owned vehicle is provided to the Mayor for the purpose of undertaking official and civic duties.
- This provision is made in lieu of mileage claims allowed under the Salaries and Allowances Tribunal Determination for Local Government CEOs and Elected Members, although other travel claims would still be allowable (for example, travel claims related to attendance at conferences).
- The vehicle selected is to the same standard as an Executive vehicle.
- The Mayor may use the vehicle for private use, on the basis that the cost of that private use is reimbursed to the City.
- The vehicle will not be used for commercial or election purposes.
- Where the Mayor ceases to hold office, the vehicle will be returned immediately to the City.
- Where the Mayor is on a leave of absence for a period greater than four weeks, the vehicle will be returned to the City and may be reallocated to the Deputy Mayor, or another Elected Member that is carrying out the official and civic duties of the Mayor.
- The Mayor will be responsible for carrying out minor maintenance, reporting damage promptly, securing the vehicle, paying for fines associated with the vehicle, and ensuring that the vehicle is used in accordance with the City's Management Practice for Motor Vehicle Use.
- Details of the arrangement for the provision, use, and responsibilities for the Mayoral vehicle will be included in an agreement between the City and the Mayor, in accordance with the Council policy.

A copy of the new policy is provided in **Attachment 2**.

If this new policy is adopted by the Council some updates will be required to the Council's Vehicle Fleet Policy. The Council will also need to allocate funding in the 2025/26 Annual Budget for the purchase and maintenance of the vehicle.

LEGISLATIVE COMPLIANCE

Local Government Act 1995 – Section 5.101A

Local Government (Administration) Regulations 1996 – Regulation 34AD

RISK MANAGEMENT CONSIDERATION

The table below shows the level of risk for each impact category, if the officer's recommendation is not adopted by the Council.

Impact Category	Appetite	Risk Rating
Workplace, Health and Safety	Low	Low
Financial	Medium	Low
Reputation and Stakeholders	Medium	Low
Service Delivery	Medium	Medium
Environment	Low	Low
Governance and Compliance	Low	Low
Strategic Risk	SR04 - Inability to work collaboratively to engage and partner with the stakeholders to promote and advocate opportunities to live and invest.	

FINANCIAL IMPLICATIONS

The following financial implications are applicable:

The Capital outlay for a City-vehicle, at an Executive standard, is up to \$75,000.

The annual operating costs are dependent on the vehicle selected and range from approximately \$14,000 to \$27,000 per annum for an Executive standard vehicle. Costs will include the estimated total annual costs of ownership for the vehicle including registration, insurance, fringe benefit tax, fuel, parts, servicing and depreciation.

Private use costs will be calculated on the basis of a logbook kept at the commencement of each term of office. This logbook will be used to record both official and personal use, in accordance with the requirements of the ATO. The current requirement of the ATO, to calculate the payment of fringe benefit tax for private use of a motor vehicle, is the maintenance of a logbook for a period of at least 12 continuous weeks.

Data collected in the logbook will then be used to estimate and apportion the private use component of the total annual costs of ownership for the vehicle for the year. The Mayor will be asked to make payments to the City, on at least a quarterly basis, to reimburse the cost of personal use.

If this policy is approved by the Council, provision for the vehicle will need to be made in the 2025/26 Annual Budget for the purchase and maintenance of the vehicle.

STRATEGIC IMPLICATIONS

In accordance with the City of Bayswater Strategic Community Plan 2021-2031 (as amended), the following applies:

Theme: Leadership and Governance

Goal L2: Plan and deliver projects and services in a sustainable way.
Work together to deliver the best outcomes for the community by managing our resources in a financially sustainable way.

CONCLUSION

City officers recommends that Council adopts the new policy provided in **Attachment 2**.



Mayoral Vehicle – Band One Local Government Benchmarking Data

No.	Local Government	Policy Title	Summary of provisions ¹
1.	Albany	Mayoral Vehicle Policy	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Can be used for reasonable personal use • Personal use is payable by Mayor
2.	Armadale	Provision and Use of Mayoral Vehicle	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Can be used for personal use • Personal use is payable by Mayor
3.	Bayswater	No existing policy provision for vehicle for the Mayor	<ul style="list-style-type: none"> • No vehicle provided • Reimbursement for travel costs in accordance with Elected Member Entitlements Policy.
4.	Belmont	Elected Member Fees, Allowances and Support Policy	<ul style="list-style-type: none"> • Vehicle provided • For official use only • No personal use • Vehicle replaced with approval from Council
5.	Bunbury	Private Use of Mayoral Vehicle	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Can be used for personal use • Personal use is payable by Mayor
6.	Busselton	Fees, Allowances and Expenses for Elected Members	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Can be used for personal use within WA. • Personal use is payable by Mayor
7.	Canning	Light Vehicle Fleet Management	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Can be used for personal use • Personal use is payable by Mayor

¹ Please note that this is a high-level summary of key provisions including whether the local government provides a vehicle, whether this provision is in lieu of mileage claims, if the vehicle can be used for personal use, and if that personal use must be reimbursed to the local government. In a number of cases there is a separate agreement in place with the Mayor – the details of these agreements have not been considered in this benchmarking exercise.

			<ul style="list-style-type: none"> Mayor can opt to pay 1/3 of vehicle costs rather than keeping a log book for reimbursement of personal use.
8.	Cockburn	Elected Member Entitlements – Allowances & Reimbursements	<ul style="list-style-type: none"> Vehicle provided In lieu of mileage claims Can be used for personal use Personal use is payable by Mayor
9.	Fremantle	Elected Member and Committee Member Allowances and Reimbursements	<ul style="list-style-type: none"> Vehicle provided In lieu of mileage claims Can be used for reasonable personal use within WA
10.	Gosnells	Fleet Management Policy	<ul style="list-style-type: none"> Vehicle provided in accordance with Council budget. Can be used for personal use
11.	Greater Geraldton	Council member fees, allowances, reimbursements and benefits	<ul style="list-style-type: none"> Vehicle provided with unrestricted personal use.
12.	Joondalup	Elected Members' Entitlements Council Policy	<ul style="list-style-type: none"> Vehicle provided In lieu of mileage claims Can be used for personal use Personal use is payable by Mayor
13.	Kalgoorlie-Boulder	Mayoral Vehicle Policy	<ul style="list-style-type: none"> Vehicle provided In lieu of mileage claims Can be used for personal use within Kalgoorlie-Boulder Personal use is payable by Mayor
14.	Karratha	Fleet and Plant Policy	<ul style="list-style-type: none"> Mayor has access to a City-owned pool vehicle for official use
15.	Kwinana	No existing policy provision for vehicle for the Mayor	<ul style="list-style-type: none"> No vehicle provided Reimbursement for travel costs in accordance with policy
16.	Mandurah	Elected Member Entitlements	<ul style="list-style-type: none"> Vehicle provided In lieu of mileage claims Can be used for personal use Personal use is payable by Mayor Deed of Agreement entered into with Mayor



17.	Melville	Mayoral Vehicle	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims and other travel expenses (unless it is not practicable to use the Mayoral vehicle). • Can be used for personal use
18.	Perth	Council Member Allowances, Fees and Entitlements	<ul style="list-style-type: none"> • Vehicle provided for the purpose of undertaking official duties
19.	Port Hedland	Elected Member Allowances, Facilities and Expenses Policy	<ul style="list-style-type: none"> • The Town makes a Town-owned vehicle available to all Elected Members.
20.	Rockingham	Council Member Entitlements Policy	<ul style="list-style-type: none"> • Mayor has access to a City-owned pool vehicle for official use • Reimbursement for use of private vehicle for official duties in accordance with the Council Member Entitlements Policy
21.	Stirling	Elected Member Entitlements Policy	<ul style="list-style-type: none"> • Vehicle provided • In lieu of mileage claims • Personal use allowed but restricted to WA only • Deed of Agreement entered into with Mayor
22.	Swan	No existing policy provision for vehicle for the Mayor	<ul style="list-style-type: none"> • No vehicle provided • Reimbursement for travel costs in accordance with Council Member Allowances, Expenses and Recognition
23.	Wanneroo	Council Members' Fees, Allowances, Reimbursements & Benefits Policy	<ul style="list-style-type: none"> • Vehicle provided • Can be used for personal use • Personal use is payable by Mayor • Deed of Agreement entered into with Mayor



Mayoral Vehicle Policy

Responsible Division	Office of the CEO
Responsible Business Unit	Governance and Strategy
Responsible Officer	Manager, Governance and Strategy
Affected Business Units	Transport and Buildings
ECM Document Set ID	[ECM document set ID]

Purpose

This policy establishes provision of a fully maintained City-owned vehicle for use by the Mayor and sets out the parameters of that use.

Scope

This policy covers the provision of a City-owned vehicle for use by the Mayor in carrying out official and civic duties, and for private use.

Definitions

Nil.

Policy Statement

1. The Mayor, in carrying out the duties and responsibilities set out in the *Local Government Act 1995*, shall be provided with a fully maintained City-owned vehicle to be used for the purpose of undertaking official and civic duties.
2. Where the Mayor is provided with a City vehicle, the vehicle must be selected in accordance with the Council's Vehicle Fleet Policy to an Executive standard.
3. The vehicle is provided in lieu of mileage claim expenses otherwise claimable by the Mayor for use of their personal vehicle in undertaking official and civic duties.
4. The provision of the vehicle will not reduce the fees, allowances and the reimbursement of expenses (other than mileage claims) ordinarily payable to the Mayor as approved by the Council in accordance with the provisions of the *Local Government Act 1995*.
5. The Mayor may elect to use the vehicle for private use, but where this occurs, the Mayor must reimburse the City for the cost of that private use.
6. The City vehicle cannot be used for any commercial purpose and is provided to the Mayor on the express understanding that it will not be used for election purposes.
7. Private use costs will be calculated on the basis of a logbook kept at the commencement of each term of office. Both official and private use will be recorded in accordance with the requirements of the Australian Taxation Office (this is a continuous period of at least 12 weeks). Data collected in

the logbook will then be used to estimate and apportion the private use component of the total annual costs of ownership for the vehicle for the year. The Mayor will be required to make reimbursement payments for private use on at least a quarterly basis but may choose to make payments monthly.

8. Costs will include the estimated total annual costs of ownership for the vehicle including registration, insurance, fringe benefit tax, fuel, parts, servicing and depreciation.
9. Where the Mayor ceases to hold office, the vehicle must be returned to the City within one business day.
10. In circumstances where the Mayor is on an approved leave of absence for a period of more than four weeks, the vehicle must be returned to the City, and may be provided for use by the Deputy Mayor, or any Elected Member carrying out the duties of the Mayor at the discretion of the Chief Executive Officer.
11. The vehicle may be made available by the Mayor to other Elected Members when carrying out official and civic duties if prior written approval is given by the Mayor.
12. When accompanied by the Mayor, the vehicle may also be used by the Mayor's spouse or partner, or another member of their household, if they have a full license without restrictions.
13. The vehicle will have a fuel card included, for use in that specific vehicle. The fuel card must be used to purchase fuel only for the Mayoral vehicle.
14. The Mayor shall be responsible for:
 - a. Carrying out regular preventative minor maintenance (fluid levels, tyre pressure, cleaning, etc.).
 - b. Reporting damage promptly to the Chief Executive Officer to enable repair.
 - c. Securing the vehicle when it is under their control, including parking the vehicle on their property when at home.
 - d. Paying fines for parking and any traffic infringements incurred when the vehicle is in use by the Mayor or their nominated driver (other than another Elected Member).
 - e. Paying any cost for damage caused to the vehicle which is not recoverable under the City's insurance policy, relating to an accident which the Mayor or their nominated driver is deemed to be at fault due to negligence or as otherwise lawfully determined.
 - f. Ensuring that the vehicle is used in accordance with the City's Management Practice for Motor Vehicle Use.
15. Details of the arrangement for the provision, use, and responsibilities for the Mayoral vehicle will be included in an agreement between the City and the Mayor, in accordance with this policy.

Related Legislation

Local Government Act 1995 (Section 5.101A refers)
Local Government (Administration) Regulations 1996 (Regulation 34AD refers)

Related Documentation

Salaries and Allowances Tribunal Determination – Local Government CEOs and Elected Members
City of Bayswater Elected Members Entitlements Policy
City of Bayswater Vehicle Fleet Policy
City of Bayswater Motor Vehicle Use Management Practice
City of Bayswater Motor Vehicle Procurement Management Practice

Document details

Relevant delegations	[list]	
Risk evaluation	Low	
Strategic link	Governance and Leadership	
Council adoption	[date]	Resolution [item no.]
Next review due	February 2027	

10 GENERAL BUSINESS

Nil.

11 CONFIDENTIAL ITEMS

11.1 Confidential Items

Nil.

12 NEXT MEETING

The next meeting of the Policy Review and Development Committee will take place in the Committee Room, 61 Broun Avenue, Morley, on 28 April 2025, commencing at 6:30pm.

13 CLOSURE